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Railroad

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# HISTORY

OF THE

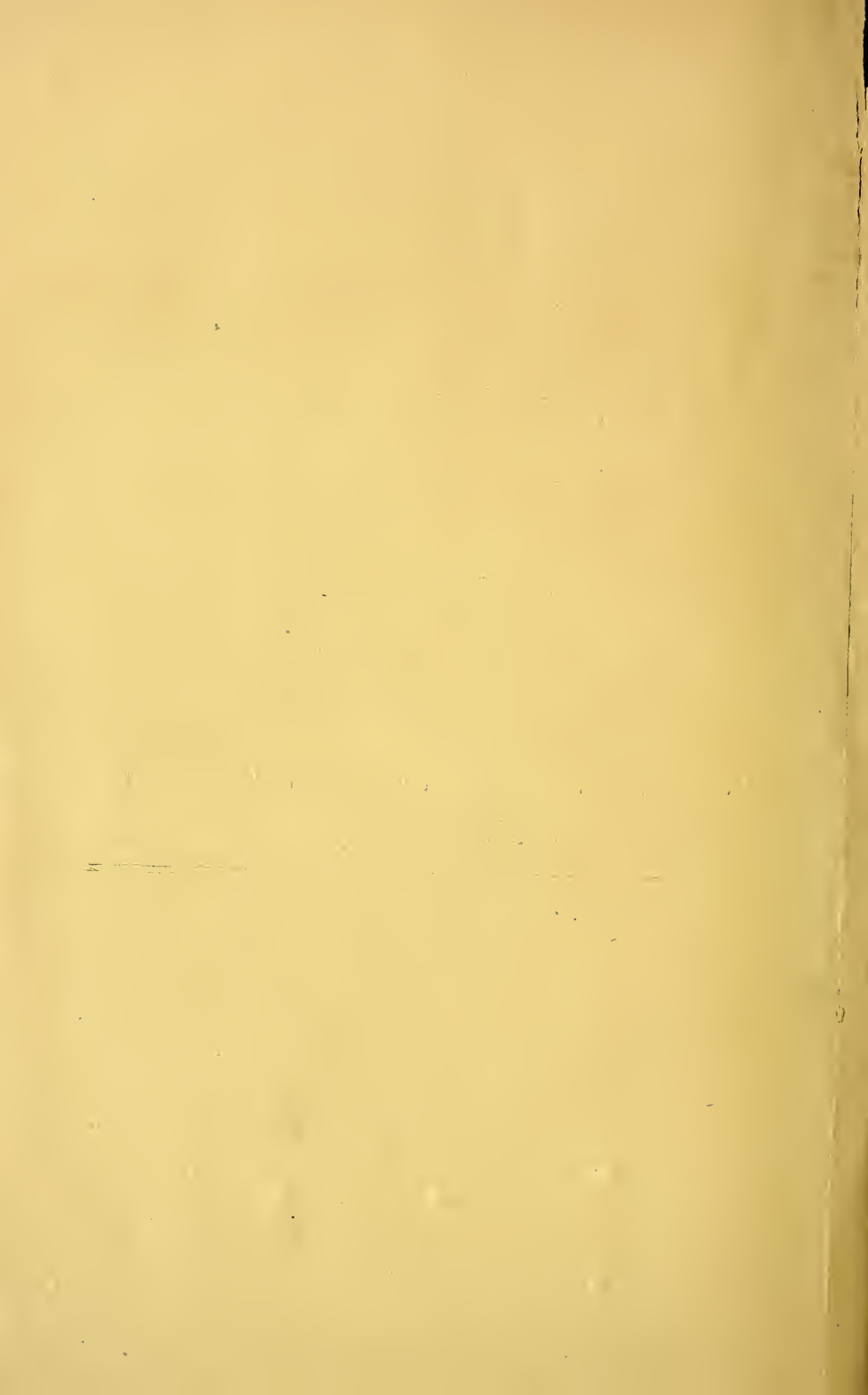
Raleigh and Gaston Railroad Company,

INCLUDING ALL THE

Acts of the General Assembly of North Carolina

RELATING THERETO.

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HISTORY

OF THE

Raleigh & Gaston Railroad Company,

INCLUDING ALL THE

ACTS OF THE GENERAL ASSEMBLY

OF

NORTH CAROLINA

RELATING THERETO.

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COMPILED BY

WALTER CLARK, Esq.,

ATTORNEY AT LAW.

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RALEIGH:

THE RALEIGH NEWS STEAM JOB PRINT.

1877.

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HISTORY OF THE RALEIGH AND GASTON RAILROAD COMPANY, commencing from the year 1835, the date of incorporation of the original company, styled "The Raleigh and Gaston Railroad Company," and continued to the present date—containing those Acts of the General Assembly of North Carolina bearing directly upon the charter and privileges of the Company, and statements of such proceedings on the part of the stockholders, the Board of Directors, and other parties, as affect the general interests of the Company.

History of the  
Raleigh and Gas-  
ton Railroad Com-  
pany.

The following Act entitled "*An Act to incorporate the Raleigh and Gaston Railroad Company*," was passed by the Legislature of North Carolina at the session of 1835:

Charter of the  
Raleigh and Gas-  
ton Railroad Com-  
pany.

# AN ACT TO INCORPORATE THE RALEIGH AND GASTON RAILROAD COMPANY.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the city of Raleigh under the direction of George W. Mordecai, William Boylan, Thomas P. Devereux, Duncan Cameron, William H. Haywood, Jr., Charles Manly, Samuel F. Patterson, Alfred Jones, Beverly Daniel and Charles L. Hinton, or any three of them; at Louisburg, under the direction of William H. Battle, Samuel Johnston, William P. Williams, Henry G. Williams and Williamson Gatewood, or any three of them; at Nashville, under the direction of Benjamin Blount, Henry Blount, Samuel Blount, Willis Boddie and James Battle, or any three of them; and at Warrenton, under the direction of Thomas White, Benjamin Cook, Henry Fitts, Jacob Faulcon, William K. Kearney and Joseph W. Hawkins, or any three of them;

Books to be  
opened.



Capital stock of  
\$80,000 author-  
ized.

and at Oxford, under the direction of Rhodes N. Hern-  
don, Thomas B. Littlejohn, Benjamin Kittrell, James  
Cooper and Thomas Lewis, or any three of them ; and at  
Gaston, under the direction of William W. Wilkins, John  
T. Weaver, James Vincent, David Clements and John  
B. Putney, or any three of them ; and at such other  
places, and under the direction of such other persons as  
any three of the commissioners hereinbefore named to  
superintend the receiving of subscriptions at Raleigh,  
shall direct, for the purpose of receiving subscriptions to  
an amount not exceeding eight hundred thousand dol-  
lars in shares of one hundred dollars each, for the pur-  
pose of effecting a communication by a railroad from  
some point in or near the city of Raleigh, to the termina-  
tion of the Greenville and Roanoke Railroad at or near  
Gaston, heretofore called Wilkins' Ferry, and for provid-  
ing everything necessary and convenient for the pur-  
pose of transportation on the same.

Times and places  
to be advertised.

SEC. 2. The times and places for receiving subscrip-  
tions shall be advertised in one or more newspapers pub-  
lished in the city of Raleigh, and towns of Warrenton  
and Oxford, and the books for receiving the same shall  
not be closed in less than ten days ; and if it shall appear  
that more than eight thousand shares of the capital  
stock aforesaid shall have been subscribed for within the  
said ten days, it shall be the duty of the said commis-  
sioners at Raleigh, or any five of them, to reduce the  
number of shares subscribed for among the subscribers  
in fair and equal proportions to the amount of stock  
subscribed for respectively by each until the whole  
amount of shares shall be reduced to eight thousand ; but  
if the whole amount shall not be subscribed for within  
ten days from the time the books shall be opened to re-  
ceive subscriptions, then the books may be closed or con-  
tinued open, or closed and re-opened, without further  
notice, as a majority of the above named commissioners



at Raleigh may judge to be most expedient, until the whole number of shares shall be subscribed for.

SEC. 3. When three thousand shares shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of the Raleigh and Gaston Railroad Company, and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying, estates, real and personal, and mixed, so far as shall be necessary for the purpose hereinafter mentioned, and no farther; and shall have perpetual succession, and by said corporate name may sue and be sued, and may have and use a common seal, which they shall have power to alter or renew at their pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may make all such by-law, rules and regulations, not inconsistent with the laws of this State, or of the United States, as shall be necessary for well ordering and conducting the affairs of the company.

Name and style of Company.

Perpetual succession.

SEC. 4. Upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of two dollars on every share subscribed, and the residue thereof shall be paid in such installments, and at such time as may be required by the President and Directors of said company. The said commissioners or their agents shall forthwith, after the first election of President and Directors of the company, pay over to the said President and Directors, all moneys received by them; and on failure thereof the said President and Directors may recover the amount due from them or from any one or more of them, by motion on ten days previous notice in the Court of Pleas and Quarter Sessions, or the Superior Court of Law, of any county wherein such

Instalments on subscriptions to stock.

commissioner or commissioners, their executors or administrators may reside, or by warrant before a Justice of said county.

Meeting of stock-  
holders when 3,000  
shares taken.

SEC. 5. When three thousand shares or more of the stock shall have been subscribed, public notice of that event shall be given by three or more of the said commissioners at Raleigh, who shall have power at the same time, to call a general meeting of the subscribers at such convenient place and time, as they shall name in said notice. To constitute any such meeting, a number of persons, entitled to a majority of all the votes which could be given upon all shares subscribed, shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn, from time to time, until a meeting shall be formed.

Quorum.

President and five  
Directors to be  
elected.

SEC. 6. The subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the president or any of the directors may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The president with any two or more of the directors, or in the event of the sickness, absence, or disability of the President, any three or more of the Directors, who shall appoint one of their own body President *pro tempore*, shall constitute a board for the transaction of business. In case of vacancy in the office of president, or any director, happening from death, resignation, removal or disability, such vacancy may be supplied by appointment of the Board until the next annual meeting.

SEC. 7. The President and Directors of the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair, and maintaining of a railroad, to be located as aforesaid, with as many sets of tracks as they are a majority of them may deem necessary, and may cause to be made and also to make and continue all works whatever which may be necessary and expedient in order to the proper completion of the said railroad.

Powers of President and Directors.

SEC. 8. The said President and Directors shall have power to make contracts with any person or persons on behalf of the company, for making the said railroad, and performing all other works respecting the same which they shall judge necessary and proper, and to require from the subscribers from time to time such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call, on any emergency, a general meeting of the subscribers, giving one month's notice thereof in one of the newspapers printed in the city of Raleigh; to appoint a Treasurer, Clerk, and such other officers as they may require, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Power to make contracts.

SEC. 9. If any stockholder shall fail to pay the sum required of him by the President and Directors, or a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the city of Raleigh, it shall and may be lawful for the President and Directors, or a majority of them, to sell at public auction, and to convey to the purchaser the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due, and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his

Failure to pay installments on stock.

legal representative; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the President and Directors may recover the balance of the original proprietor, or his assignee, or to the executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before a justice of the county of which he is a resident; and any purchaser of the stock of the company, under the sale by the President and Directors, shall be subject to the same rules and regulations as the original proprietors.

Power to increase  
capital stock to  
\$1,000,000.

SEC. 10. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be found insufficient for the purpose of this act, it shall and may be lawful for the President and Directors of the said company, or a majority of them, from time to time to increase the said capital stock to an amount not exceeding one million of dollars, by the addition of as many shares as they may deem necessary, first giving to the individual stockholders, for the time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books of subscription in the city of Raleigh, and towns of Warrenton, and Louisburg, and Oxford and Nashville, as is herein prescribed for the original stock of the company, for any balance of capital stock created which may not be taken by the stockholders for the time being, or in their behalf; and the subscribers for such additional shares of the capital stock in the said company are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

Power to borrow  
money, &c.

SEC. 11. *Be it further enacted*, That the President and Directors, or a majority of them, shall have power to borrow money for the objects of this act; to issue certi-



ificates or other evidence of such loans, and to make the same convertible into stock of the company, at the pleasure of the holder: *Provided*, That the capital stock shall not thereby be increased to any amount exceeding one million of dollars; and to pledge the property of the company for the payment of the same, and its interests: *Provided*, That no certificate of loan convertible into stock, or creating any lien or mortgage on the property of the company shall be issued by the President and Directors, unless the expediency of making a loan on such terms, and of issuing such certificates, shall have first been determined on at a general meeting of stockholders, by two-thirds of the votes which could legally be given in favor of the same. Proviso.

SEC. 12. *Be it further enacted*, That the said President and Directors, their officers, agents and servants, shall have full power and authority to enter upon all lands and tenements through which they may desire to conduct their railroad, and to lay out the same according to their pleasure, so that the dwelling-house, kitchen, yard or garden of no person be invaded without his consent, and they shall have power to enter in and lay out such contiguous land as they may desire to occupy as sites for depots, toll-houses, warehouses, engine sheds, work shops, water stations and other buildings for the necessary accommodation of their officers, agents and servants, their horses, mules and other cattle, and for the protection of the property entrusted to their care: *Provided*, That the land so laid out on the line of the railroad shall not exceed (except at deep cuts and fillings) eighty feet in width; and that the adjoining land for the sites of buildings (unless the President and Directors can agree with the owner or owners for the purchase of the same) shall not exceed one and a half acre in any one parcel. If the President and Directors cannot agree with the owner or owners of the lands so entered on and laid out by them, as to the terms of purchase, it shall be lawful for them to Power to condemn right of way

Five freeholders  
to assess damages

apply to the Court of Pleas and Quarter Sessions of the county in which such land or the greater part thereof may lie; and upon such application the court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of the land, for the purpose aforesaid. No such appointment, however, shall be made unless ten days previous notice of the application shall have been given to the owner of the land, or to the guardian, if the owner be an infant, or to the committee, the owner being *non compos mentis*. if such owner, guardian or committee can be found within this country; or if he cannot be so found, then such appointment shall not be made, unless notice of the application shall have been published at least one month next preceding in some newspaper printed as convenient as may be to the court house of the county, and shall have been posted at the door of the court house on the first day at least of the next preceding term of the said court. A day for the meeting of said freeholders to perform the duty assigned them shall be designated in the order appointing them; and any one or more of them attending on the day may adjourn from time to time until their business shall be finished. Of the five freeholders so appointed, any three or more of them may act, after having been duly sworn or solemnly affirmed before some Justice of the Peace that they will impartially and justly, to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land, from the consideration thereof, for the use of the company, and that they will truly certify their proceedings thereupon to the court of the said county.

Assessment of  
damages.

SEC. 13. It shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land proposed to be condemned, and after viewing the same and hearing such proper evidence as the party may offer, they shall ascertain according to their best judgment the damages which the proprietor of the land will



sustain by the condemnation thereof for the use of the company. In performing this duty they shall consider the proprietor of the land as being the owner of the whole fee simple interest therein. They shall take into consideration the quality and quantity of the land to be condemned, the additional fencing that will be required thereby, and all other inconveniences which will result to the proprietor from the condemnation thereof.

SEC. 14. When the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings, under their hands and seals in substance as follows: "We—freeholders, appointed by an order of the Court of Pleas and Quarter Sessions, for the purpose of ascertaining the damages that will be sustained by—the proprietor of certain lands in the said county, which the President and Directors of the Raleigh and Gaston Railroad Company propose to condemn, for their use, do hereby certify that we met together on the land aforesaid on the — day of —, the day appointed therefor by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting by the said order); and that having been first duly sworn, and having visited the premises, we proceeded to estimate the quantity and quality of the land aforesaid, the quantity of additional fencing which would probably be occasioned by its condemnation, and all other inconveniences which seemed to us likely to result therefrom, to the proprietor of said land. That under the influence of these considerations, we have estimated and do hereby assess the damages aforesaid at the sum of ——. Given under our hands and seals, this — day of —." At the foot of the report so made, the magistrate before whom the said freeholders were sworn, shall make a certificate in substance, as follows: "— county. I, —, a Justice of the Peace of said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn (or affirmed) before me, that they would impartially and justly, to the best of

Report of assess-  
sors.

their ability, ascertain the damages which would be sustained by the above named ———, by the condemnation of the above mentioned land, for the use of the Raleigh and Gaston Railroad Company, and they would certify truly their proceedings thereupon to the court of said county. Given under my hand, this ——— day of ———.”

Report to be returned.

SEC. 15. The report of the freeholders so made, together with the certificate of the Justice of the Peace, as aforesaid, shall be forthwith returned by the said freeholders to the court of the county, and unless good cause be shown against the report, it shall be confirmed by the court and entered on record. But if the said report should be disaffirmed, or if the said freeholders being unable to agree should report their disagreement, or if from any other cause they should fail to make a report within a reasonable time after their appointment, the court may, in its discretion, as often as it may be necessary, supersede, them or any of them, appoint others in their stead, and direct another view and report to be made in the manner above prescribed.

Condemned land held as if conveyed.

SEC. 16. On the confirmation of any such report, and on payment or tender to the proprietor of the land of the damages so assessed, or the payment of said damages into Court, when for good cause shown the Court shall so have ordered it, the land reviewed and assessed as aforesaid shall be vested in the Raleigh and Gaston Railroad Company, and they shall be adjudged to hold the same in fee simple, in the same manner as if the proprietor had sold and conveyed it to them.

Right to enter on land before condemnation of same.

SEC. 17. While these proceedings are depending for the purpose of ascertaining the damages to the proprietor for the condemnation of his land, and even before they shall have been instituted, the President and Directors, if they think that the interest of the Company requires it, may, by themselves, their officers, agents and servants, enter upon the lands laid out by them as aforesaid, and which they desire to condemn and apply the same to the use of

the Company. If when they so take possession, proceedings to ascertain the damages as aforesaid be pending, it shall be their duty diligently to prosecute them to a conclusion. And when the report of the freeholders ascertaining the damages shall be returned and confirmed, the Court shall render judgment in favor of the proprietor of the land for the amount thereof, and either compel its payment into Court, or award a process of execution therefor as to them shall seem right.

SEC. 18. In the meantime, no order shall be made, and no injunction shall be awarded by any Court or Judge, to stay the proceedings of the Company in the prosecution of their work unless it be manifest that their officers, agents and servants are transcending the authority given them by this act; and that the interposition of their Court is necessary to prevent injury that cannot be adequately compensated for in damages.

No injunction to lie except, &c.

SEC. 19. If the President and Directors shall take possession of any land before the same shall have been purchased by them, or condemned and paid for according to the provisions of this act, and shall fail for forty days to institute proceedings for its condemnation as aforesaid, or shall not prosecute with due diligence the proceedings commenced for that purpose, it shall be lawful for the proprietor of the land, upon giving to the said President and Directors, or any one of them, ten days previous notice, to apply to the Court of the county in which the land or the greater part thereof shall lie, and upon such application, the Court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of his land for the use of the Company, shall appoint a day for their meeting to report the duties assigned them; and shall dismiss, at the cost of the Company, any proceeding then depending on their behalf for the condemnation of said land. The freeholders so appointed, any three or more of whom may act, shall pro-

When owner of land can apply for appointment of assessors.

ceed in the performance of their duties, in all respects in the same manner as if they had been appointed on the application of the President and Directors of the Company. And the Court shall, in like manner, confirm or disaffirm their report ; supersede them, or any of them, and appoint others in their stead ; or direct another view and report to be made as often as may be necessary. And when any such report, ascertaining the damages, shall be confirmed, the Court shall render judgment in favor of the proprietor for the damages so assessed, and double costs, and shall thereupon either compel the Company to pay into Court the damages and costs so adjudged, or award a process of execution therefor, as to them shall seem right.

Double costs.

When judgement for damages paid title to land to vest in Company.

SEC. 20. When the judgment rendered for the damages assessed and costs shall be satisfied by the payment of the money into Court, or otherwise, the title of the land for which such damages are assessed, shall be vested in the Company in the same manner as if the proprietor had sold and conveyed it to them.

Right of Company to enter upon lands adjoining right of way.

SEC. 21. The said President and Directors, for the purpose of constructing their railroad aforesaid, and the works necessarily connected therewith ; or of repairing the same after they shall have been made ; or of enlarging or otherwise altering the same, shall be at liberty, by themselves, their officers, agents or servants, at any time to enter upon any adjacent lands, and to cut, quarry, dig, take, and carry away therefrom, any wood, stone, gravel or earth, which they may deem necessary : *Provided, however,* That they shall not, without the consent of the owner, cut down any fruit tree, or any tree preserved in any lot or field for shade or for ornament ; nor take any timber, gravel, stone or earth, constituting any part of any fence or building. For all wood, stone, gravel or earth taken under authority of this act, and for all incidental injuries done to the inclosures, crops, woods or grounds, in taking or carrying the same away, the said President and Directors

Proviso.

shall make to the owner a fair and reasonable compensation, to be ascertained, if the parties cannot agree, by any three impartial and disinterested freeholders, who, being appointed for that purpose by any Justice of the Peace thereto required by the owner, shall be sworn by him, and shall then ascertain the compensation upon their own view, of the wood, stone, gravel or earth taken, and of the injury done as aforesaid in taking them: *Provided, however,* That it shall be the duty of the owner or owners, to show to the Justices of the Peace to whom the application is made, that ten days' previous notice of the time of making the same has been given to the President or one of the principal agents of the Railroad Company; and no award, which may be given under any appointment without such notice, shall be obligatory or binding on said Company: *Provided, however,* That either party, not satisfied with the award which may be given as above, may appeal to the Court of Pleas and Quarter Sessions of the county in which the land may be situated, who may, as in the case of assessment of land, confirm or disaffirm the report of the freeholders, supersede them, or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary.

Proviso.

Right to appeal.

SEC. 22. If the said President and Directors, in entering upon the land of any person under the authority of this act for the purpose of laying out or constructing, enlarging, altering or repairing any of their said works, shall by themselves or their officers do any wanton or wilful injury to such land or its appurtenances; or to the crops growing or gathered, or to any other property thereon, the Raleigh and Gaston Railroad Company shall pay to the person so injured double the amount of the damages, which shall be assessed by a jury in any proper action therefor; or if said injury be done by any person or persons, who may have contracted with the Company for the construction of any portion of their railroad or any of the

Double damages for wilful injuries by Company.



works connected therewith, he or they shall be responsible to the party injured in the like amount.

Duty to construct roads and bridges across established roads.

SEC. 23. Whenever, in the construction of said railroad it shall become necessary to cross or intersect any established road or way, it shall be the duty of the said President and Directors so to construct the said railroad across such established roads or ways, as not to impede the passage or transportation of persons or property along the same; or when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual a proper wagon way across said railroad from one part of his land to the other: *Provided, however,* That in order to prevent the frequent crossing of established roads or ways, or in cases in which it may be necessary to occupy the same, it may be lawful for the said President and Directors to change the said roads to points where they may deem it expedient to do so. And that for entering upon or taking any land which may be necessary therefor, they shall be and are hereby authorized to proceed under the provisions of this act as in the case of land necessary for their railroad: *Provided, further,* that previous to the making of any such change the said company shall make and prepare a road equally good with the portion of the road proposed to be substituted; but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

May change intersecting road.

Proviso.

Power to buy rolling stock or contract for transportation.

SEC. 24. The said President and Directors, or a majority of them shall have power to purchase, with the funds of the company, and place on the railroad constructed under this act, all machines, wagons, vehicles, carriages and teams of any description whatever, which they deem necessary or proper for the purpose of transportation. Or if they should deem it most expedient to do so they may contract with any other railroad company or companies,



or with any individual or individuals for effecting the transportation of the same.

SEC. 25. All machines, wagons, vehicles and carriages purchased as aforesaid, with the funds of the Company, or engaged in the business of transportation on said railroad, and all the works of the said Company constructed, or property acquired under the authority of this act; and all profits which shall accrue from the same, shall be vested in the respective stockholders of the Company forever, in proportion to their respective shares, and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever for the term of fifteen years; and thereafter the Legislature may impose a tax not exceeding twenty-five cents per annum per share on each share of the capital stock, whenever the annual profits thereof shall exceed six per cent.

Exemption from taxation.

SEC. 26. Upon the railroad hereby authorized, the Company shall have the exclusive right of transportation. When it is completed, they shall at all times furnish and keep in good repair, the necessary carriages and other requisites for the safe and convenient transportation of persons and property; and it shall be their duty at all times, upon the payment or tender of the tolls hereby allowed to transport to any depot on the road, which the owner of the goods may indicate, and there to deliver all articles which shall be delivered to them for transportation, or offered to them in proper condition to be transported at some depot on the road most convenient for the reception thereof.

Exclusive right of transportation.

SEC. 27. They shall give no undue preference in transportation to the property of one person over that of another, but as far as practicable shall carry each in the order of time in which it shall be delivered or offered for transportation with the tolls paid or tendered. If the Company or any of its officers or agents shall fail to re-

No undue preference in carrying freight to be given.

ceive, transport or deliver in due time any property so offered or delivered to them for transportation, or shall fail to take up or set down any passenger or passengers at such convenient point as he or they may desire, upon the payment or tender of the passage money hereby allowed, they shall forfeit and pay to the party so injured double the amount of the lawful toll paid or tendered, and shall, moreover, be liable to an action on the case, in which full damages and double costs shall be recovered.

Rates for passenger and freights not to be exceeded limit specified for same.

SEC. 28. So soon as any portion of railroad hereby authorized may be in readiness for transportation, it shall be lawful for the said President and Directors to transport by their officers or agents, or by contractors under them, persons and property on the same. And they shall have power to charge for the transportation of persons, goods, produce, merchandise and other articles, and for the transportation of the mail, any sum not exceeding the following rates, viz: On persons, not exceeding six cents per mile for each person, unless the distance which any person be transported be less than ten miles, in which case the President and Directors may be entitled to make an extra charge of fifty cents for taking up and putting down each person so transported; for the transportation of goods, produce, merchandise and other articles, not exceeding an average of ten cents per ton per mile, and for transportation of the mail such sums as they may agree for; and the said President and Directors shall be furthermore entitled to demand and receive for the weighing, storage and delivering of produce and other commodities at their depots and warehouses, rates not exceeding the ordinary warehouse rates charged for such services.

Power to exact tolls over their bridges.

SEC. 29. *Be it further enacted*, That if the said President and Directors shall deem it advisable to construct the bridges which may be necessary on the line of their railroad, of sufficient width to admit of the passage of common roads as well as their railroads over the same, they

may be entitled to demand and receive from all persons and wagons, carriages, and all four and two wheeled vehicles, and for all beasts of burden, sheep and hogs passing the same, the tolls which may be allowed by the Court of Pleas and Quarter Sessions of the county in which said bridge may be.

SEC. 30. As soon as ten miles of the railroad hereby authorized shall be completed, the President and Directors shall annually or semi-annually declare and make such dividend as they may deem proper, of the net profits arising from the resources of the said Company, after deducting the necessary current and probable contingent expenses of the said Company, and shall divide the same among the proprietors of the stock of the said Company in proportion to their respective shares.

Power to declare dividends.

SEC. 31. An annual meeting of the subscribers to the stock of the said Company shall be held at such time and place in each year as the stockholders, at their first general or at any subsequent meeting, may appoint; to constitute which, or any general meeting called by the President and Directors, according to the provisions of this act, the presence of proprietors entitled to a majority of all the votes, which could be given by all the stockholders, shall be necessary, either in person or by proxy properly authorized. And if a sufficient number do not attend on that day, or any day appointed for a general meeting, called by the Directors as aforesaid, the proprietors who do attend may adjourn from time to time until a general meeting shall be had.

Annual meeting.  
Quorum.

SEC. 32. In counting all votes of the said Company each member shall be allowed one vote for each share not exceeding two shares, one vote for every two shares above two and not exceeding ten shares, and one vote for every five shares, above ten held by him at the time, in the stock of the Company: *Provided however*, that no stockholder,

Scale for voting.  
Proviso.

whether an individual, body politic or corporate, shall be entitled to more than sixty votes on any amount of the capital stock of said Company held by him or them.

Amounts to be rendered to annual meetings.

SEC. 33. The President and Directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the stockholders.

Work to be commenced in two years and finished in ten years.

SEC. 34. The works hereby required of the Raleigh and Gaston Railroad Company, shall be executed with diligence, and if they be not commenced within two years after the passage of this act, and finished within ten years after the first general meeting of the stockholders, then this charter shall be forfeited.

Certificates of stock.

SEC. 35. The President and Directors shall cause to be written or printed certificates for the shares of the stock in said Company, and shall deliver one such certificate, signed by the President and countersigned by the Treasurer, to each person for the number of shares subscribed by him, which certificate shall be transferable by him—subject, however, to all payments due or to become due thereon; and such assignee having first caused the transfer or assignment, to be entered in a book of the Company, to be kept for the purpose, shall thenceforth become a member of said Company, and shall be liable to pay all sums due or which shall become due upon the stock assigned to him: *Provided however,* That such assignment shall in no wise exempt the assignor or his representative from the liability to the said Company for the payment of all such sums, if the assignee or his representative shall be unable or fail to pay the same.

Proviso.

Punishment for wilful injury to road or rolling stock.

SEC. 36. If any person or persons shall wilfully, by any means whatever, injure, impair, or destroy any part of the railroad, constructed under this act, or any of the necessary works, machines, wagons, vehicles, carriages, or other property belonging to the said Company, or

shall place any obstruction upon said road, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof in the Court of Pleas and Quarter Sessions, or Superior Court of Law, of the county where the offence may be committed, shall be fined and imprisoned at the discretion of the Court.

SEC. 37. *Be it further enacted*, That if at any time hereafter, the above rates for toll and transportation shall enable the said President and Directors, after the payment of all necessary expenses, and after setting apart a fair and reasonable sum for the renewal and repairs of the said road, warehouses, and depots, and other constructions, and of the machines and other vehicles for transportation, to divide more than fifteen per cent. on their capital stock invested, that the said rates of toll and transportation shall be so reduced by the said President and Directors as to enable them to divide fifteen per cent. and no more.

Limit of dividends to be fifteen per cent.

SEC. 38. *Be it further enacted*, That no person shall be eligible as President or Director of said Company unless he be a resident citizen of this State.

President and Directors to be citizens of North Carolina.

SEC. 39. *Be it further enacted*, That it shall be the duty of the President of said Company on the first week in December, in each and every year, to transmit to the General Assembly a correct statement of all the receipts and expenditures of said Company during the year preceding.

President to send report annually to General Assembly.

SEC. 40. *Be it further enacted*, That when the General Assembly may be of opinion that the Charter hereby granted shall have been violated, it may be lawful, by joint resolution of the two houses, to direct the Attorney General, with such assistant counsel as the Governor or Legislature may think proper to engage, to issue a writ of *scire facias*, returnable before the Judges of the Su-

Procedure to enforce forfeiture



preme Court, calling upon said corporation to show cause why their Charter shall not be forfeited, subject to the same proceedings as are now prescribed by law in case of other corporations.

Right reserved for other railroads to cross track.

SEC. 41. *Be it further enacted*, That any railroad which may hereafter be constructed by the State or by any company incorporated by the Legislature, shall be at liberty to cross the road hereby allowed to be constructed, upon a level or otherwise, as may be most advantageous : *Provided*, The free passage of said Raleigh and Gaston Railroad is not thereby obstructed.

Proviso.

Company can erect depot at intersection with other railroads.

SEC. 42. *Be it further enacted*, That whenever the said road shall be so crossed or approached by any other railroad, incorporated by this State, the said Raleigh and Gaston Railroad Company may erect a depot, at or near the point of intersection where they may receive and deliver passengers and freight, and take therefor the same rates of compensation and be subject to the same regulations as at other depots ; and should they fail or refuse to erect such depots, the State or company owning the intersecting road may erect one, and the company hereby incorporated shall receive and deliver passengers and freight at such depots under the same regulations as aforesaid, unless the same shall be rendered impracticable by the situation of the road at such place.

Charter for 90 years.

SEC. 43. *Be it further enacted*, That the corporate powers herein granted shall be and enure for ninety years, and no longer unless renewed by competent authority.

The following Act was ratified 7th January, 1839 :



AN ACT FOR THE RELIEF OF THE RALEIGH AND GASTON RAIL-  
ROAD.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That at any time after the passage of this act, the President and Directors of the Raleigh and Gaston Railroad Company may make their bonds payable to the Public Treasurer of the State of North Carolina for the sum of five hundred thousand dollars and no more, which said bonds are to be signed by the President and under the seal of the corporation, and made for any sum or sums not under one thousand dollars each, and to carry interest at the rate of six per cent. per annum, which interest is to be paid semi-annually, to-wit: On the first Monday in July and on the first Monday in January in each and every year thereafter, and the amount of said bonds to be made payable on the first of January, one thousand eight hundred and sixty, at such place as the President and Directors of said Company and the parties may agree upon.

Bonds to be executed by company to the amount of \$500,000.

SEC. 2. *Be it further enacted,* That upon the President making the bonds as aforesaid, and filing the same with the Public Treasurer of the State, it shall be his duty, and he is hereby directed to endorse on the said bonds as follows: Pay to ———, or order, and this endorsement pledges the State of North Carolina as security for the payment of the sum in the bond, according to the provisions of the act of the General Assembly of of eighteen hundred and thirty-eight and eighteen hundred and thirty-nine, entitled "An Act for the relief of the Raleigh and Gaston Railroad Company," which endorsement is to be signed by the Public Treasurer in his official capacity and countersigned by the Comptroller. The Public Treasurer, after endorsing the bonds as before

Endorsement.

mentioned, shall duly number and register them at large in a book prepared and kept for that purpose.

Bonds to be delivered to company.

SEC. 3. *Be it further enacted*, That it shall be the duty of the Public Treasurer, on the endorsement being made as before directed, and the bonds being numbered and registered, and the mortgage, as hereinafter directed, being made and delivered to the Governor, to deliver the same to the President and Directors of said Company, and they are at liberty to fill up the blank in said endorsement with the name or names of the person or persons, or company, or corporation, to whom the same may be sold or transferred, and when so filled up, shall be as binding on the State of North Carolina as if the same was done by the Public Treasurer at the time of making the endorsement as aforesaid.

Transfer to be registered.

SEC. 4. *Be it further enacted*, That the President and Directors, from time to time, as they shall sell or transfer the said bonds and fill up the blank, with the name or names of the person, company or corporation to whom they are sold or transferred, shall cause a statement to be filed with the Public Treasurer, setting forth the time of the transfer or sale, the person, company or corporation to whom payable, to be by him registered in the book to be kept for the registration of the bonds aforesaid.

Faith of the State pledged.

SEC. 5. *Be it further enacted*, That for the payment of the interest semi-annually, at the rate of six per centum per annum on the principal debt due on the bonds hereby authorized to be made, the credit and faith of the State is pledged to the holders of said bonds, and on failure of the President and Directors to pay the principal and interest as it accrues, the Public Treasurer is authorized to pay the same out of any money in the Treasury at the time. For the full and entire payment and redemption of said principal, the General Assembly do hereby guarantee the principal due on the bonds authorized by this act to be created.

SEC. 6. *Be it further enacted*, That the said bonds shall be transferable by the holders of the same or by his, her or their attorney, in a book to be kept by the Public Treasurer for that purpose, and in every such transfer the outstanding bond shall be surrendered to and cancelled by the Public Treasurer and a new bond shall be issued for the same amount to the person entitled to the same.

Bonds, how transferred.

SEC. 7. *Be it further enacted*, That the debt hereby created shall not be redeemable until after the first day of January one thousand eight hundred and sixty, and after that day the same shall and may be redeemed at such time or times and in such proportions as may hereafter be declared and appointed by law.

Debt, when redeemable.

SEC. 8. *Be it further enacted*, That whenever the President and Directors of the Raleigh and Gaston Railroad Company shall make, execute and deliver to the Governor of this State for and in behalf of the State, a deed of mortgage under the seal of said Company wherein and whereby shall be conveyed to the said Governor and his successors in office, for the use and benefit of the State, all the estate, real and personal, belonging to the said Raleigh and Gaston Railroad Company, or in any manner pertaining to the same, conditioned for indemnifying and saving harmless the State of North Carolina from the payment of the whole or any part of the bonds hereby authorized to be made and issued by the President and Directors of the Raleigh and Gaston Railroad Company and endorsed by the Public Treasurer, also make, execute and deliver, under the seal of said Company, to the Governor, for the use and benefit of the State, a pledge of so much of the profits of said Company as shall be sufficient to pay semi-annually the interest which may accrue on said bonds until the final payment and redemption of the principal of said bonds; which said deed of mortgage and pledge shall be approved by the Attorney General

Mortgage.

of the State; then it shall be the duty of the Public Treasurer, and he is hereby required to deliver to the President and Directors of the Raleigh and Gaston Railroad Company, the whole of said bonds, which by this act he is authorized and required to endorse, taking therefor the receipt of the President of said Raleigh and Gaston Railroad Company.

Duty of the Governor if the interest be not laid regularly.

SEC. 9. *Be it further enacted*, That in case of failure by the President and Directors of the said Raleigh and Gaston Railroad Company, to pay and discharge semi-annually the interest which may accrue on the bonds hereby authorized to be made and executed, it shall be lawful for the Governor of this State for the time being to apply in behalf of the State to the Superior Court of Equity for the county of Wake for a sequestration of the receipts for transportation on said road, and for the appointment of a Receiver or Receivers of the said receipts; which Court, on the proof of the failure to pay such interest by the President and Directors of said Railroad Company, shall have power to order such sequestration and appoint a Receiver or Receivers accordingly; and in case of such sequestration, and the appointment of a Receiver or Receivers of the profits for transportation on said road, it shall be the duty of such Receiver or Receivers to apply so much thereof as shall be sufficient to pay the interest on said bonds semi-annually, and to pay the excess to the President and Directors of said Raleigh and Gaston Railroad Company.

Bonds payable after 1860 and for failure to do so, the mortgage to be foreclosed.

SEC. 10. *Be it further enacted*, That from and after the commencement of the year one thousand eight hundred and sixty, it shall be the duty of the President and Directors of the Raleigh and Gaston Railroad Company, to pay and redeem the principal of the bonds hereby authorized to be issued by the President and Directors of said Raleigh and Gaston Railroad Company, and endorsed by the Public Treasurer, and delivered by him to

the said Raleigh and Gaston Railroad Company, at such times and in such amounts, annually, as may be prescribed and directed by act of the General Assembly of this State, and in case of failure of the President and Directors of the said Raleigh and Gaston Railroad Company, to pay off and redeem the principal of the said bonds, at such times and in such amounts as may be prescribed and directed by act of the General Assembly, then it shall be the duty of the Governor of this State, for the time being, to cause the mortgage made and executed by the President and Directors of the said Raleigh and Gaston Railroad Company to be foreclosed in the Superior Court of Equity for Wake county, which Court is hereby authorized and empowered to take jurisdiction of the same, and on the decree of foreclosure being made by said Court, it shall be the further duty of the Governor of the State, to cause the whole estate, real and personal, so conveyed by mortgage, to be sold at such time and in such ways as shall most effectually protect and save harmless the State against any loss or damage, by reason of its liability for the payment of said bonds, or any part thereof, and out of the proceeds of such sale or sales to pay off and redeem the whole amount of principal of said bonds and to pay the excess to the President and Directors of said Company.

SEC. 11. *Be it further enacted*, That the State may at any time within seven years after the completion of said Raleigh and Gaston Railroad, take five thousand shares of the stock of said road, or any less number of shares of the stock; and if the State shall elect to take five thousand shares of stock, the said five thousand shares shall be a full equivalent for the liability of the State for the principal of said bonds, and on electing to take the said five thousand shares, the mortgage of the real and personal estate of the said Company to secure the payment of the principal of said bonds and the pledge of the profits of the said road, for securing the payment of interest as

The State to take stock if it shall elect.



herein provided for, shall cease, determine and become of no force and effect, and thereafter the State shall be liable for the payment of the principal of said bonds, and the interest accruing thereon. And if the State shall elect to take any number of shares less than five thousand, such number of shares shall be an equivalent for the liability of the State for the principal of so much of the money due on said bonds as is equal in value to the shares taken by the State, estimating each share at one hundred dollars: *Provided*, That on electing to take such number of shares, the State shall refund to the President and Directors of said Company, the full amount of interest which they may have paid on said shares so taken by the State; and the mortgage of the real and personal estate of said Company, to secure the payment of the principal of said bonds, and the pledge of the profits of the said Railroad for securing the payment of interest as herein provided for, shall stand as securities to the State for the payment of the principal of so much of said bonds as shall be left, after deducting the number of shares taken by the State, each share being estimated at one hundred dollars, and for the payment of interest accruing on said residue of the principal.

Power to increase  
capital stock.

SEC. 12. *Be it further enacted*, That the stockholders in said Raleigh and Gaston Railroad Company shall have power, and they are hereby authorized if they deem it necessary, to increase the capital stock of said Company to one million five hundred thousand dollars, by adding thereto such number of shares as shall not in the whole exceed fifteen thousand shares, which additional shares shall be taken and held to be a part of the capital stock of the said Raleigh and Gaston Railroad Company, as fully as if the same had been originally subscribed therein.

Bonds to be sur-  
rendered if more  
than necessary to  
complete the road.

SEC. 13. *Be it further enacted*, That if by reason of any loans of money obtained in Europe or elsewhere, on the credit of said Company, the amount of bonds hereby au-

thorized to be issued, shall be found more than sufficient to complete the said Raleigh and Gaston Railroad, then and in that case it shall and is hereby made the duty of the said Company to surrender and deliver up to the Public Treasurer such amount of the said bonds as may be found to be unnecessary as aforesaid, to the completion of the said road and that all monies borrowed by the said Company shall be faithfully applied to the said road, and to no other purpose whatever.

SEC. 14. *Be it further enacted*, That in case the real and personal estate of the said Raleigh and Gaston Railroad Company, so mortgaged for the benefit and indemnity of the State of North Carolina and to be sold (if necessary) as by this act directed, should prove insufficient to pay off and satisfy the full amount of the bonds aforesaid, including the principal and interest thereon, then each and every stockholder of said Raleigh and Gaston Railroad Company shall be held liable to pay towards making up such deficiency, the full amount of the shares respectively held and owned by him or her therein, at the time when said deficiency shall be ascertained, or such ratable proportion thereof as may be requisite to pay such stockholder's deficiency, and no more: *Provided*, That the General Assembly may at any time appoint a committee to examine into the situation of the said Company, and that whenever it shall appear that the said Company are insolvent and unable to pay the amount borrowed under the authority of this act the General Assembly may direct the mortgage to be foreclosed, according to the provisions heretofore prescribed.

Stockholders liable in their individual capacity for the debt hereby created.

SEC. 15. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

[*Ratified the 7th day of January, A. D. 1839.*]

The following act was ratified 8th January, 1839:

## AN ACT TO INCORPORATE THE WELDON RAILROAD COMPANY.

Books, where to  
be opened.

Commissioners,

Capital stock.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by authority of the same,* That it shall be lawful to open books in the city of Raleigh, under the direction of George W. Mordecai, William Boylan, Thomas P. Devereux, Duncan Cameron, William H. Haywood, Jr., Charles Manly, R. Smith and Alfred Jones, or any three of them; at Warrenton, under the direction of Weldon N. Edwards, Joseph W. Hawkins, Thomas White, Geo. D. Baskerville, Peter R. Davis, and William Plummer, or any three of them; at Weldon, under the direction of Andrew Joyner, Thomas S. Wyatt, Whitmel H. Hardie, James Simmons and William H. Day, or any three of them; at Halifax, under the direction of James Halliday, Jesse H. Simmons, Michael Ferrill, A. A. Austin, Redding J. Hawkins, and Joseph L. Simmons, or any three of them; and at such other places, and under the direction of such other persons as any three of the Commissioners hereinbefore named to superintend the receiving of subscriptions shall direct, for the purpose of raising subscriptions to an amount not exceeding two hundred thousand dollars, in shares of one hundred dollars each, for the purpose of effecting a communication by a railroad from some point on the Raleigh and Gaston Railroad, between Littleton and the Roanoke River and the termination of the Portsmouth Railroad at Weldon, and for providing everything necessary and convenient for the purpose of transportation on the same.

Scaling of sub-  
scriptions if neces-  
sary.

SEC. 2. The times and places for receiving subscriptions, shall be advertised in one or more newspapers published in the city of Raleigh, and the books for receiving the same shall not be closed in less than ten days; and if it shall appear that more than two thousand shares of the capital stock aforesaid shall have been subscribed

for within the said ten days, it shall be the duty of the said commissioners at Raleigh, or any five of them, to reduce the number of shares subscribed for among the subscribers, in fair and equal proportions to the amount of stock subscribed for respectively by each until the whole amount of shares shall be reduced to two thousand, but if the whole amount shall not be subscribed for within ten days from the time the books shall be opened to receive subscriptions, then the books may be closed or continued open, or closed and re-opened without further notice as a majority of the above mentioned commissioners may judge to be most expedient until the whole number of shares shall be subscribed for.

SEC. 3. When one thousand shares shall be subscribed Incorporation.  
for, in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of the Weldon Railroad Company, and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, personal and mixed, so far as shall be necessary for the purposes hereinafter mentioned, and no further, and shall have perpetual succession, and by said corporate name, may sue and be sued and may have and use a common seal which they shall have power to alter or renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or the United States, as shall be necessary for the well ordering and conducting the affairs of the Company. Upon any subscription of stocks as aforesaid, there shall be paid at the time of subscribing to the said commissioners or their agents appointed to receive such subscriptions, the sum of two dollars on every share subscribed, and the residue thereof Instalments.  
shall be paid in such instalments and at such times as

may be required by the President and Directors of said Company.

Duty of Commis-  
sioners.

SEC. 4. The said commissioners or their agents shall forthwith, after the first election of President and Directors of the Company, pay over to the said President and Directors all moneys received by them, and on failure thereof, the said President and Directors may recover the amount due from them or from any one of them by motion, on ten days previous notice in the Court of Pleas and Quarter Sessions, or the Superior Court of law in any county wherein such commissioner or commissioners, their executors or administrators may reside or by warrant before a Justice of the Peace of said county.

Meeting of stock-  
holders.

SEC. 5. When one hundred thousand dollars or more of the stock shall have been subscribed, public notice of that event shall be given by any three or more of the said commissioners, who shall have power at the same time to call a general meeting of the subscribers, at such convenient place and time as they shall name in said notice.

Quorum.

SEC. 6. To constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed shall be present either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time, until a meeting shall be formed.

Officers.

SEC. 7. The subscribers at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a President and five Directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected, but the said



President and Directors, or any of them, may at any time be removed and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The President, with any two or more of the Directors, or in the event of the sickness, absence or disability of the President, any three or more of the Directors who shall appoint one of their own body President *pro tem.*, shall constitute a board for the transaction of business; in case of vacancy in the office of President, or any Director, happening from death, resignation, removal or disability, such vacancy may be supplied by the appointment of the board, until the next annual meeting.

SEC. 8. The President and Directors of said Company Powers. shall be and they are hereby invested with all the rights and powers necessary for the construction, repair and maintaining of a Railroad, to be located as aforesaid, with as many sets of tracks as they or a majority of them may deem necessary, and may cause to be made, and also to make and construct all works whatsoever, which may be necessary and expedient in order to the proper completion of the said railroad.

SEC. 9. The President and Directors shall have power Contracts, &c. to make contracts with any person or persons on behalf of the Company, for making the said railroad and performing all other works respecting the same, which they shall judge necessary and proper, and to require from the subscribers, from time to time, such advances of money on their respective shares as the wants of the Company may demand, until the whole of their subscriptions shall be advanced; to call, on any emergency, a general meeting of the subscribers, giving one month's notice thereof in one of the newspapers printed in the city of Raleigh, to appoint a treasurer, clerk, and such other officers as they may require, and to transact all the business of the Company during the intervals between the general meetings of the stockholders.

Proceedings on  
failure to pay sub-  
scriptions by any  
of the stockholders

SEC. 10. If any stockholder shall fail to pay the sum required of him by the President and Directors, or by a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the city of Raleigh, it shall and may be lawful for the President and Directors, or a majority of them, to sell at public auction, and to convey to the purchasers the share or shares of such stockholder, so failing or refusing, giving one month's previous notice of the time and place of sale, in manner aforesaid and after retaining the sum due, and all charges of the sale, out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative, and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the President and Directors may recover the balance of the original proprietor or his assignee, or the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before a Justice of the Peace of the county of which he is a resident ; and any purchaser of the stock of the Company under the sale by the President and Directors, shall be subject to the same rules and regulations as the original proprietors.

Increase of capital  
stock.

SEC. 11. *Be it further enacted,* That if the capital stock of the Company hereby incorporated, shall be found insufficient for the purpose of this act ; it shall and may be lawful for the President and Directors of the said Company, or a majority of them, from time to time, to increase the said capital stock to an amount not exceeding two hundred and fifty thousand dollars, by the addition of as many shares as they may deem necessary, first giving the individual stockholders, for the time being or their legal representatives, the option of taking such additional shares, in proportion to the amount of stock respectively held by them, and opening books in the city of Raleigh, and such other places as the President and Directors may think proper, for any balance of the capi-

tal stock created which may not be taken by said stockholders for the time being, or in their behalf; and the subscribers for such additional shares of the capital stock in the said Company are hereby declared to be thenceforward incorporated into the said Company with all the privileges and advantages and subject to all the liabilities of the original stockholders.

SEC. 12. *Be it further enacted*, That the President and Directors, or a majority of them, shall have power to borrow money for the objects of this act, to issue certificates or other evidences of such loans, and make the same convertible into the stock of the Company, at the pleasure of the holder, provided that the capital shall not thereby be increased to an amount exceeding two hundred and fifty thousand dollars, and to pledge the property of the Company for the payment of the same, with its interest, provided that no certificate of loan convertible into stock, or creating any lien or mortgage on the property of the Company, shall be issued by the President and Directors, unless the expediency of making a loan on such terms and of issuing such certificates shall have first been determined on at a general meeting of the stockholders by two-thirds of the votes which could legally be given in favor of the same.

Property of the  
Company pledged  
for the payment  
of monies borrow-  
ed.

SEC. 13. *Be it further enacted*, That the said President and Directors, their officers, agents and servants shall have full power and authority to enter upon all lands and tenements through which they may desire to conduct their railroad, and to lay out the same according to their pleasure so that the dwelling-house, yard, garden or curtelage of no person be invaded without his consent; and that they shall have power to enter on and lay out such contiguous lands as they may desire to occupy as sites for depots, toll houses, warehouses, engine sheds, workshops, water stations, and other buildings for the necessary accommodation of their officers, agents and

Authority to enter  
upon lands, &c.

Proviso.

servants, their horses, mules and other cattle for the protection of property entrusted to their care: *Provided*, That the land so laid out on the line of the railroad shall not exceed, except at deep cuts and fillings, eighty feet in width, and that the adjoining land for the sites of buildings, unless the President and Directors can agree with the owner or owners for the purchase of the same, shall not exceed one and a half acres in any one parcel. If the President and Directors cannot agree with the owner or owners of the land so entered on and laid out by them, as to the terms of purchase, it shall be lawful for them to apply to the Court of Pleas and Quarter Sessions of the county in which said land or the greater part of it may lie, and upon such application, the Court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of the land for the purposes aforesaid. No appointment, however, shall be made, unless ten days previous notice of the application shall have been given to the owner of the land, or the guardian, if the owner be an infant or *non-compos mentis*, if such owner or guardian can be found within the county. Or if he cannot be so found, then such appointment shall not be made unless notice of the appointment shall have been published at least one month next preceding, in some newspaper printed as convenient as may be to the Court-house of the county, and shall have been posted at the door of the Court-house on the first day, at least of the next preceding term of said Court. A day for the meeting of the said freeholders to perform the duty assigned them, shall be designated in the order appointing them, and any one or more of them attending on that day, may adjourn from time to time until their business shall be finished. Of the five freeholders so appointed, any three or more may act, after having been duly sworn or solemnly affirmed before some Justice of the Peace, that they will impartially and justly, to the best of their ability, ascertain the damages that will be sustained by the proprietor of the land from the condem-

Appointment of assessors.

Quorum.

nation thereof for the use of the Company, and that they will truly certify their proceedings thereupon to the Court of said county.

SEC. 14. It shall be the duty of the said freeholders in Duty of assessors.  
pursuance of the order appointing them, to assemble on the land proposed to be condemned, and after viewing the same, and hearing such proper evidence as either party may offer, they shall ascertain, according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof for the Company. In performing this duty, they shall consider the proprietor of the lands as being the owner of the whole fee simple interest therein; they shall take into consideration the quality and the quantity of the land to be condemned, the additional fencing that will be required thereby, and all the inconvenience that will result to the proprietor from the condemnation thereof, and shall combine therewith a just regard for the advantages which the owner of the land will derive from opening the railroad through the same.

SEC. 15. When the said freeholders shall have agreed Form of report.  
upon the amount of damages they shall forthwith make a written report of their proceedings under their hands and seals as follows: We, ———, freeholders appointed by an order of the Court of Pleas and Quarter Sessions for the purpose of ascertaining the damages that will be sustained by ———, proprietors of certain lands in said county, which the President and Directors of the Weldon Railroad Company propose to condemn for their use, do hereby certify that we met together on the land aforesaid, on the ——— day of ———, the day appointed therefor by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting by said order), and that having been first duly sworn (or affirmed as the case may be) and having visited the premises, we proceeded to estimate the quantity and



quality of land aforesaid, the quantity of additional fencing which would probably be occasioned by its condemnation, and all other inconveniences which would probably result therefrom to the proprietor of said land and that we combined with these considerations as far as we could, a just regard to the advantages which would be derived by the proprietor of the said land from the opening of the aforesaid railroad through the same; that under the influence of these considerations we have estimated and do hereby assess the damages aforesaid at the sum of ——. Given under our hands and seals this—— day of ——. At the foot of the report so made the magistrate before whom the said freeholders were sworn shall make a certificate in substance as follows: ——— county. Sect. I, ———, a Justice of the Peace for the said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn (or affirmed) before me. that they would impartially and justly to the best of their ability ascertain the damages which would be sustained by the above named — by the condemnation of the aforementioned land for the use of the Weldon Railroad Company, and that they would certify truly their proceedings thereon to the court of said county. Given under my hand, this —— day of ——.

Form of Justice's  
certificate.

Provision in case  
of failure by as-  
sessors to report.

SEC. 16. The report of the freeholders so made, together with the certificate of the Justice of the Peace as aforesaid shall be forthwith returned by the said freeholders to the court of the county, and unless good cause can be shown against the report, it shall be confirmed by the court and entered upon record; but if the said report should be disaffirmed, or if the said freeholders, being unable to agree, should report their disagreement, or if from any other cause they should fail to make a report within a reasonable time after their appointment the court may, in its discretion, as often as may be necessary, supersede them or any of them, appoint others in their

stead, and direct another view and report to be made in the manner above prescribed.

SEC. 17. On the confirmation of any such report, and on payment or tender to the proprietor of the land, of the damage so assessed, or the payment of said damages into Court when for good cause shown, the Court shall have so ordered, the land viewed and assessed as aforesaid shall be vested in the Weldon Railroad Company, and they shall be adjudged to hold the same in fee simple in the same manner as if the proprietor had sold and conveyed it to them.

Land vested in the Company on confirmation of report, &c.

SEC. 18. While these proceedings are pending for the purpose of ascertaining the damages to the proprietor for the condemnation of his land, and even before they shall have been established, the President and Directors, if they think that the interest of the Company require it, may, by themselves, their officers, agents and servants, enter upon the lands laid out by them as aforesaid, and which they desire to condemn and apply to the use of the said Company. If, when they so take possession, proceedings to ascertain the damages as aforesaid be pending, it shall be their duty diligently to prosecute them to conclusion, and when the report of the freeholders ascertaining the damages, shall be returned and confirmed, the Court shall render judgment in favor of the proprietors of the land for the amount thereof, and either compel its payment into Court, or award process of execution for the recovery, as to them shall seem right.

Company authorized to enter upon lands before the appointment of assessors.

SEC. 19. In the meantime no order shall be made, and no injunction shall be awarded by any Court or Judge to stay the proceedings of the Company in the prosecution of their work unless it be manifest that their officers, agents or servants, are transcending the authority given them by this act, and that the interposition of the Court

is necessary to prevent injury that cannot be adequately compensated for in damages.

Court authorized to appoint assessors on failure of the Company to do so.

SEC. 20. If the President and Directors shall take possession of any land before the same shall have been purchased by them, or condemned or paid for according to the provisions of this act, and shall fail for forty days to institute proceedings for its condemnation as aforesaid, or shall not prosecute with due diligence the proceedings commenced for that purpose, it shall be lawful for the proprietor of the land, upon giving to the said President and Directors or any of them, ten days previous notice, to apply to the Court of the county in which the land or the greater part thereof shall lie, and upon such application, the Court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of his land to the use of the Company, shall appoint a day for their meeting, to perform the duties assigned them, and shall dismiss at the cost of the Company any proceedings then depending in their behalf for the condemnation of the said land. The freeholders so appointed, any three or more of whom may act, shall proceed in the performance of their duties in all respects in the same manner as if they had been appointed by the President and Directors of the Company, and the Court shall in like manner confirm or disaffirm their report, supersede them or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary, and when any such report ascertaining the damages shall be confirmed the Court shall render judgment in favor of the proprietor for the damages so assessed and double costs, and shall thereupon either compel the Company to pay into Court the damages and costs so adjudged, or award process of execution therefor, as to them shall seem right.

Duty of assessors when appointed by the Court.

Vested title.

SEC. 21. When the judgment rendered for the damages assessed and costs shall be satisfied by the payment

of the money into the court, or otherwise, the title of the land for which such damages are assessed shall be vested in the Company in the same manner as if the proprietor had sold and conveyed it to them.

SEC. 22. *Be it further enacted*, That the written consent of any owner or proprietor of any lands, through which the said road is to be constructed, showing his or their agreement to the same, shall be valid and effectual to give the same power and authority over all land required for the construction of the road, as if the same had been conveyed by deed or bargain and sale, or condemned upon petition aforesaid.

Written consent  
of the owner valid

SEC. 23. The said President and Directors, for the purpose of constructing their railroad aforesaid and the works necessarily connecting therewith, or of repairing the same after they shall have been made, or of enlarging or otherwise altering the same, shall be at liberty, by themselves, their officers, agents or servants, at any time to enter upon any adjacent lands, and to cut, quarry, dig, take and carry away therefrom any wood, stone, gravel or earth, which they may deem necessary: *Provided*, however, that they shall not, without the consent of the owner, cut down any fruit tree, or any tree preserved in any lot or field for shade or ornament, nor take any timber, gravel, stone, or earth, constituting any part of any fence or building. For all wood, stone, gravel or earth taken under authority of this act, for all incidental injuries done to the inclosure, crops, wood or ground, in taking and carrying away the same, the said President and Directors shall make to the owner a fair and reasonable compensation to be ascertained, if the parties cannot agree, by any three impartial and disinterested freeholders, who being appointed for that purpose by any Justice of the Peace, thereto required by the owner, shall be sworn by him, and shall then ascertain the compensation upon their own view of the wood, ground, earth or

Authority to take  
materials from  
adjacent lands.

Proviso.

Compensation to  
owner.

Arbitration.

- Proviso.

stone taken and for the injury done as aforesaid in taking them : *Provided however*, That it shall be the duty of the owner or owners to show to the Justice of the Peace to whom the application is made, that ten days previous notice of making the same has been given to the President, or one of the principal agents of the Railroad Company and no award which may be given under any appointment, without such notice, shall be obligatory or binding on the Company : *Provided however*, That either party not satisfied with the award which may be given as above, may appeal to the Court of Pleas and Quarter Sessions of the county in which the land may be situated, who may as in the case of the assessment of lands, confirm or disaffirm the report of the freeholders, supersede them or any of them, and appoint others in their stead or direct another view and report to be made as often as may be necessary.

Further proviso.

Company liable  
for injury done to  
property.

SEC. 24. If the President and Directors, in entering upon the land of any person under the authority of this act for the purpose of laying out, constructing, enlarging, altering or repairing any of their said works, shall by themselves or their officers, do any wanton and wilful injury to such land or its appurtenances, or to the crops growing or gathered, or to any other property thereon, the Weldon Railroad Company shall pay to the person so injured, double the amount of damages which shall be assessed by a jury in any proper action therefor ; or if said injury be done by any person or persons who may have contracted with the Company for the construction of any portion of the road or any part of the works connected therewith, he or they shall be responsible to the party injured in the like amount.

Established roads  
or ways not to be  
obstructed.

SEC. 25. Whenever in the construction of said railroad, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the said President and Directors so to construct the said railroad across such established roads or ways as not to impede the passage or transportation of persons or property along the same, or



when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual a proper wagon way across said railroad from one part of his land to the other. *Provided however,* Proviso. that in order to prevent the frequent crossing of established roads or ways, or in case it may be necessary to occupy the same, it may be lawful for the said President and Directors to change the said road to points they may deem expedient to do so and that for entering upon or taking any land that may be necessary therefor, they shall be and are hereby authorized to proceed under the provisions of this act, as in the case of land necessary for their railroad. *Provided further,* Further Proviso. That previous to the making of any such change, the said company shall make and prepare a road equally good with the portion of the road proposed to be substituted, but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

SEC. 26. The said President and Directors or a majority of them, shall have power to purchase with the funds of the company, and place on the railroad constructed under this act, all machines, wagons, vehicles and carriages and teams of every description whatsoever, which they may deem necessary or proper for the transportation of persons or property, or if they should deem it more expedient to do so, they may contract with any individual or individuals for effecting the transportation on the same. Carriages, &c

SEC. 27. All machines, wagons, vehicles and carriages purchased as aforesaid with the funds of the company, or engaged in the business of transportation on said railroad and all the works of said Company constructed, or property acquired under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective stockholders of the com- Property of the Company.

pany forever in the proportion of their respective shares and the same shall be deemed personal estate and shall be exempt from any public charge or tax whatsoever.

Transportation.

SEC. 28. Upon the road hereby authorized the company shall have the exclusive right of transportation. When it is completed, they shall at all times furnish and keep in good repair the necessary carriages and other requisites for the safe and convenient transportation of persons and property and it shall be their duty, at all times upon the payment or tender of the tolls hereby allowed, to transport to any depot on the road, which the owner of the goods may indicate and there to deliver all articles which shall be delivered to them for transportation, or offered to them in proper condition to be transported at said depot on the road most convenient for the reception thereof.

Order of transportation.

SEC. 29. They shall give no undue preference to the property of one person over that of another, but as far as practicable shall carry each in the order of time in which it shall be delivered or offered for transportation, with the tolls paid or tendered. If the company or any of its officers or agents shall fail to receive, transport or deliver in due time any property so offered to them for transportation, or shall fail to take up or sit down any passenger or passengers at such convenient point as he or they may desire, upon the payment or tender of the passage money hereby allowed, they shall forfeit and pay to the party so injured, double the amount of the lawful toll paid or tendered, and shall moreover be liable to an action on the case in which full damages and double costs shall be recovered.

Liability for failure to transport.

SEC. 30. So soon as any portion of the railroad hereby authorized, may be in readiness for transportation, it shall be lawful for the said President and Directors to transport by their officers or agents or by contracts under them, persons and property on the same, and they shall

have power to charge for the transportation of persons, goods, produce, merchandize and other articles and for the transportation of the mail, any sum not exceeding the following rates, viz: On persons, not exceeding eight cents a mile for each person, unless the distance which any person be transported be less than ten miles, in which case the President and Directors may be entitled to make an extra charge of fifty cents for taking up and putting down each person so transported; for the transportation of goods, produce, merchandize and other articles, not exceeding an average of twelve cents per ton per mile and for the transportation of the mail, such sums as they may agree for and the said President and Directors shall be furthermore entitled to demand and receive for the weighing, storage and delivery of produce and other commodities at their depots and warehouses, rates not exceeding the ordinary warehouse rates charged for such services.

Rates of transportation.

SEC. 31. *Be it further enacted*, That if the said President and Directors shall deem it advisable to construct the bridge which may be necessary on the line of their railroad of sufficient width to admit of the passage of common roads as well as their railroads over the same, they may be entitled to demand and receive from all persons and for wagons, carriages and for all four and two wheeled vehicles and for beasts of burden, sheep and hogs passing the same, the tolls which may be allowed by the Court of Pleas and Quarter Sessions of the county in which the said bridge may be.

Bridge.

SEC. 32. As soon as ten miles of the railroad hereby authorized, shall be completed, the President and Directors shall annually or semi-annually declare and make such dividend as they may deem proper, of the nett profits arising from the resources of the said company after deducting the necessary current and probable contingent expenses of the said company and shall

Dividends.

divide the same among the proprietors of the stock of said company in proportion to their respective shares.

Meetings of stockholders.

SEC. 33. An annual meeting of the subscribers to the stock of said company, shall be held at such time and place in each year, as the stockholders at their first general meeting, or at any subsequent meeting, may appoint, to constitute which or any general meeting called by the President and Directors according to the provisions of this act, the presence of the proprietors entitled to a majority of all the votes which could be given by all the stockholders shall be necessary either in person or by proxy properly authorized and if a sufficient number do not attend on that day or any day appointed for a general meeting called by the Directors aforesaid, the proprietors who do attend may adjourn from time to time until such general meeting shall be had.

Apportionment of votes.

SEC. 34. In counting all the votes of the said company each member shall be allowed one vote for each share not exceeding two shares. One vote for every two shares above two and not exceeding ten; and one vote for every five shares above ten by him held at the time in the stock of the company *Provided however*, That no stockholder whether an individual, body politic or corporate, shall be entitled to more than sixty votes on any amount of the capital stock of said company held by him or them.

SEC. 35. The President and Directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the stockholders.

SEC. 36. The works hereby required of the Weldon Railroad Company, shall be executed with diligence, and if they be not commenced within three years after the passage of this act and finished within ten years after

the first general meeting of the stockholders, then this charter shall be forfeited.

SEC. 37. The President and Directors shall cause to be Certificates.  
written or printed certificates of the shares of the stock in the said company and shall deliver one such certificate signed by the President and countersigned by the Treasurer, to each person for the number of shares subscribed by him which certificate shall be transferable by him, subject however to all payments due or to become due thereon and such assignee having first caused the transfer or assignment to be entered in a book of the company to be kept for the purpose, shall thenceforth become a member of the company aforesaid and shall be liable to pay all sums due, or to become due, upon the stock assigned him: *Provided however*, That such assignment shall in no wise exempt the assignor or his representative from their liability to the said company for their payment of all such sums, if the assignee or his representative shall be unable or fail to pay the same.

SEC. 38. If any person or persons shall wilfully, by any means whatever, impede or hinder the construction or injure, impair or destroy any part of the railroad to be constructed under this act, or any of the necessary works, machines, wagons, vehicles, carriages or other property belonging to the said company, or shall place any obstruction on said road, such person or persons shall be deemed guilty of a misdemeanor and on conviction thereof in the Court of Pleas and Quarter Sessions, or Superior Court of Law of the county in which the offence may be committed, shall be fined and imprisoned at the discretion of the Court. Penalty for obstructing or injuring the road.

SEC. 39. *Be it further enacted*, That when the General Assembly may be of the opinion that the charter hereby granted shall have been violated, it may be lawful by joint resolutions of the two Houses to direct the Attorney Proceedings in case of violation of charter.



Books open to inspection.

General with such assistant counsel as the Governor or Legislature may think proper to engage, to issue a writ of *scire facias*, returnable before the Judges of the Supreme Court, calling upon the said corporation to show cause why their charter shall not be forfeited, subject to the same proceedings as are now prescribed by law in case of other corporations. Their books shall at all times be open to the inspection of a Committee of the General Assembly appointed for the purpose, and the President of said Company shall biennially make a report to the Legislature, on or before the third week of their session of their receipts and expenditures, and of such other of their proceedings as he shall deem proper.

Road may be crossed.

SEC. 40. *Be it further enacted*, That any railroad which may hereafter be constructed by the State or by any company incorporated by the Legislature, shall be at liberty to cross the road hereby allowed to be constructed upon a level or otherwise as may be advantageous : *Provided*, that the free passage of the Weldon Railroad is not obstructed.

Depot at the point crossed.

SEC. 41. *Be it further enacted*, That whenever the Railroad shall be so crossed or approached by any other Railroad incorporated by the State, the said Weldon Railroad Company may erect a depot at or near the point of intersection, where they may receive and deliver passengers and freight and take therefor the same rates of compensation and be subject to the same regulations as other depots and if they fail or refuse to erect such depot the State or company owning such intersecting road may erect one and the company hereby incorporated shall receive and deliver passengers and freight at such depot, under the same regulations as aforesaid unless the same shall be rendered impracticable by the situation of the railroad at such place.

SEC. 42. *And be it further enacted*, That this act shall

take effect and be in force from and after its ratification, and shall enure and continue for the term of ninety years,

[*Ratified the 8th day of January, A. D. 1839.*]

The following Act was ratified 12th January, 1841.

AN ACT FOR THE BENEFIT OF THE RALEIGH AND GASTON RAILROAD COMPANY.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall hereafter be lawful for said company to charge for the transportation of passengers any sum not exceeding ten cents per mile, any law to the contrary notwithstanding.

Regulating the charges of the Company for travelling per mile.

SEC. 2. *And be it further enacted,* That this act shall be in force from and after its passage until the end of the next session of the Legislature.

[*Ratified the 12th day of January, 1841.*]

The following Act was ratified 4th of January, 1841:

AN ACT TO SECURE THE STATE AGAINST ANY AND EVERY LIABILITY INCURRED FOR THE RALEIGH AND GASTON RAILROAD COMPANY, AND FOR THE RELIEF OF THE SAME.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That at any time after the passage of this act, the President and Directors of the Raleigh and Gaston Railroad Company, may make their bonds payable to the Public Treasurer of the State of North Carolina, for the sum of three hundred thousand dollars and no more, which said bonds are to be signed by the President, and under the seal of the corporation, and made for any sum or sums, not under one thousand dollars, and

The railroad may make their bonds to the amount of \$300,000 payable to the Public Treasurer.

Interest to be paid  
semi-annually.

Principal to be re-  
paid in instal-  
ments.

to carry interest at the rate of six per cent. per annum, which interest is to be paid semi-annually, to-wit: on the first Monday in January and the first Monday in July in each and every year thereafter; the principal sums secured by said bonds to be payable as follows, that is to say, as to one-tenth part thereof, on the first Monday in January, A. D. one thousand eight hundred and forty-five, as to one other tenth part thereof, on the first Monday in January, one thousand eight hundred and forty-six, as to one other tenth part thereof, on the first Monday in January, one thousand eight hundred and forty-seven, as to one other tenth part thereof, on the first Monday in January, one thousand eight hundred and forty-eight, as to one other tenth part thereof, on the first Monday in January, one thousand eight hundred and forty-nine, as to the one other tenth part thereof, on the first Monday in January, one thousand eight hundred and fifty, as to one other tenth part thereof, on the first Monday of January, one thousand eight hundred and fifty-one, as to one other tenth part thereof, on the first Monday of January, one thousand eight hundred and fifty-two, as to one other tenth part thereof, on the first Monday of January, one thousand eight hundred and fifty-three, and as to the remaining tenth part thereof, on the first day of January, A. D. one thousand eight hundred and fifty-four.

Public Treasurer  
to endorse the  
bonds.

SEC. 2. *Be it further enacted,* That upon the President making the bonds as aforesaid, and filing the same with the Public Treasurer of the State it shall be his duty and he is hereby directed to endorse on said bonds as follows: "Pay to ——— or order." and this endorsement pledges the State of North Carolina as security for the payment of the sum in the bond according to the provisions of this act, which endorsement is to be signed by the Public Treasurer in his official capacity and countersigned by the Comptroller. The Public Treasurer after endorsing the bonds as before mentioned, shall duly

number and register them at large in a book prepared and kept for that purpose.

SEC. 3. *Be it further enacted,* That it shall be the duty of the Public Treasurer on the endorsement being made as directed, and the bonds being numbered and registered, and the mortgage as hereinafter directed, being made and delivered to the Governor, to deliver the same to the President and Directors of said Company and they are at liberty to fill up the blank in said endorsement with the name or names of the person or persons, or company or corporation, to whom the same may be sold or transferred, and when so filled up shall be as binding on the State of North Carolina as if the same was done by the Public Treasurer at the time of making the endorsement aforesaid.

The bonds then to be handed to the Railroad Company for their use.

SEC. 4. *Be it further enacted,* That the President and Directors, from time to time, as they shall sell or transfer the said bonds, and fill up the blank with the name or names of the person, company or corporation to whom they are sold or transferred, shall cause a statement to be filed with the Public Treasurer, setting forth the time of the transfer, or sale, the person, company or corporation, to whom payable, to be by him registered in the book to be kept for the registration of the bonds aforesaid.

The Railroad Company to make a statement to the Public Treasurer of the manner in which the bonds are disposed of.

SEC. 5. *Be it further enacted,* That for the payment semi-annually of interest at the rate of six per centum per annum, on the principal debt due on the bonds hereby authorized to be made, and of the principal sums as the same shall become due and payable, the credit and faith of the State is pledged to the holders of said bonds, and on failure of the President and Directors to pay the principal and interest as it accrues, the Public Treasurer is authorized to pay the same out of any money in the Treasury at the time.

Faith of the State is pledged for the semi-annual interest on the bonds

The bonds are transferable by the holders.

Before the bonds are delivered to the Railroad Company, the stockholders, &c., others to enter into a bond of \$500,000 as security to the State against loss.

Bond to be renewable every two years.

SEC. 6. *Be it further enacted*, That the said bonds shall be transferable by the holders of the same or by his, her or their attorney, in a book to be kept by the Public Treasurer for that purpose, and in every such transfer, the outstanding bond shall be surrendered to and cancelled by the Public Treasurer, and a new bond for the same amount shall be issued to the person entitled to the same: *Provided*, That before any of the said bonds are delivered to the President and Directors of said Company the stockholders in the same holding at least three-fourths of its stock, or on failure of any of the stockholders, a sufficient number of other solvent persons who may subscribe in such sums as they may think proper so as to amount in all to the sum of five hundred thousand dollars, shall enter into a bond, payable to the State of North Carolina, covenanting and binding each one of the obligors therein, severally, to pay and satisfy to the said State a part proportionate to the number of shares of each one's stock, and to the sums so subscribed, in any loss or damage that may come to the State, in consequence of the endorsement by the State of the bonds for five hundred thousand dollars, under the act of one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine, entitled an act for the relief of the Raleigh and Gaston Railroad Company, and insufficiency of the real and personal estate and property of said Company to discharge the same; which bond shall be renewable every two years, and the ability of such obligors at the time of such renewal shall be judged of by the Governor, Treasurer and Comptroller of this State, and in case of failure on the part of an obligor, to renew as herein directed, such refusal shall operate as a breach of the bond heretofore given as to such stockholder so refusing, and the same is hereby directed to be put in suit, and said refusal shall further work a forfeiture of the stock of such obligor to the Raleigh and Gaston Railroad Company, and; *Provided further*, That before any of said bonds are delivered as aforesaid the Governor of the



State shall make enquiry into the ability of the obligors thereto, and certify to the Public Treasurer that in his opinion, they are able to pay, and satisfy the bond aforesaid.

SEC. 7. *Be it further enacted*, That where any stockholder agreeing to accept the provisions of this act shall not be a resident of the State of North Carolina, or shall not be the owner of sufficient real estate within the limits of this State to satisfy the amount of the bond hereby directed to be taken, he or she shall be required to give good and sufficient security within the limits of this State.

Signers of the bond to own sufficient property in this State.

SEC. 8. *Be it further enacted*, That the said Raleigh and Gaston Railroad Company shall, within the space of four months from the 15th day of January, one thousand eight hundred and forty-one, make their election to accept the benefit of this act, and upon the same being made, to give notice thereof to the Governor; otherwise that the same be, and is hereby declared to be void and of no effect.

The Company to make its election to accept the benefit of this act within four months.

SEC. 9. *Be it further enacted*, That when the President and Directors of the Raleigh and Gaston Railroad Company shall make, execute and deliver to the Governor of this State for and on behalf of the State, a deed of mortgage, under the seal of said company, wherein and whereby shall be conveyed to the said Governor and his successors in office for the use and benefit of the State, all the estate, real and personal, belonging to the said Raleigh and Gaston Railroad Company, or in any manner pertaining to the same, conditioned for indemnifying and saving harmless the State of North Carolina from the payment of the whole or any part of the bonds hereby authorized to be made and issued by the President and Directors of the Raleigh and Gaston Railroad Company, and endorsed by the Public Treasurer; also make, exe-

Public Treasurer is to deliver bonds endorsed by him, when securities are given the State for transfer by said Company.

cute and deliver, under the seal of said Company, to the Governor for the use and benefit of the State, a pledge of so much of the profits of the road, as should be sufficient to pay semi-annually the interest which may accrue on said bonds until the final redemption and payment of the principal of said bonds, which said deed of mortgage and pledge shall be approved by the Governor and Attorney General of the State; and when the bond provided for by the sixth section of this act shall have been filed with the Public Treasurer, then, and not before, it shall be the duty of the Public Treasurer, and he is hereby required to deliver to the President and Directors of the Raleigh and Gaston Railroad Company the whole of said bonds, which by this act he is authorized and required to endorse, taking therefor the receipt of the President of said Raleigh and Gaston Railroad Company.

Recourse to be had by the Governor of the State in case of failure in the Railroad Company to pay the semi-annual interest.

SEC. 10. *Be it further enacted*, That in case of failure by the President and Directors of said Raleigh and Gaston Railroad Company to pay and discharge semi-annually the interest which may accrue on the bonds hereby authorized to be made and executed, it shall be lawful for the Governor of this State for the time being to apply in behalf of the State to the Superior Court of Equity for the county of Wake for a sequestration of the receipts for transportation on said road, and for the appointment of a Receiver or Receivers of said receipts, which Court, upon proof of failure to pay such interest by the President and Directors of said Railroad Company, shall have power to order such sequestration and to appoint a Receiver or Receivers accordingly; and in case of such sequestration and the appointment of a Receiver or Receivers of the profits for transportation on said road, it shall be the duty of such Receiver or Receivers to apply so much thereof as shall be sufficient to pay the interest on said bonds semi-annually, and to pay the excess to the President and Directors of said Raleigh and Gaston Railroad Company.

SEC. 11. *Be it further enacted*, That in case of failure of the President and Directors of the said Raleigh and Gaston Railroad Company, to pay off and redeem the principal of said bonds, as the same shall become due and payable, it shall be the duty of the Governor of this State for the time being, to cause the mortgage made and executed by the President and Directors of the Raleigh and Gaston Railroad Company to be foreclosed in the Superior Court of Equity for the county of Wake, which court is hereby authorized and empowered to take jurisdiction of the same and on the decree of foreclosure being made by said court, it shall be the further duty of the Governor of the State to cause the whole estate, real and personal, so conveyed by mortgage to be sold at such time and in such ways as shall most effectually protect and save harmless the state against any loss or damage, by reason of its liability for the payment of said bonds or any part thereof, and out of the proceeds of such sale or sales, to pay off and redeem the whole amount of principal of said bonds and pay the excess to the President and Directors of said company.

And also in case of a failure to repay the principal as it becomes due.

SEC. 12. *Be it further enacted*, That the General Assembly may at any time appoint a committee to examine into the situation of said company and that whenever it shall appear that said company is insolvent and unable to pay the amount for which the state may be liable under the authority of this act, the General Assembly may direct the mortgage to be foreclosed according to the provisions heretofore prescribed.

The General Assembly may at any time appoint a committee to examine into the situation of the affairs of the Company.

SEC. 13. *Be it further enacted*, That the Railroad extending from Raleigh to Gaston, and the engines and other apparatus necessary to its use, and all the lands and houses and other fixtures, that are attached to the said road or are convenient to its use, shall not be liable to seizure or sale by execution at the instance of any creditor who may hereafter see fit to contract with said corpo-

No part of the Railroad property to be liable to seizure by execution at the instance of any creditor.

ration ; but if future creditors choose to enter into engagements with said corporation, they shall look to other resources for payment, it being the intention of the Legislature to protect the public interest against any improvidence, and to secure to the public the benefit of the road and of continuing its operation without the necessity of any future advances by the State, but this section shall not prevent any future creditor of the said corporation from suing for his debt and after he has got judgment at law resorting to a Court of Equity to have the shares of, or interest of individual stockholders in the road, subjected to sale for the payment of his debt; or whatever profits he may be entitled to, sequestered for that purpose; *always provided*, that in no event shall the State's security or interest in the road be diminished or interfered with : *Provided further*, That all persons employed hereafter as agents and officers of the Company and in repairs of the road, and all debts hereafter contracted for repairs or materials for repairs, shall and may be paid out of the profits of the same, and such creditors may file a petition either at law or in equity, to recover their debt and to have the same paid out of the said profits, under the orders and decrees of the Court. Such suits, however, shall always be brought in Wake Superior Court, against said Company, and no where else in order that the Attorney General may interpose in cases where any collision may be suspected, and that the General Assembly may also more certainly and promptly investigate the affairs of said corporation ; but this is not to prevent the removal of any suit to another county for trial where a reasonable ground for it is shown to the Court upon affidavit, as in other cases.

The Company to make no dividend of the property until all debts for which the State is responsible are paid.

SEC. 14. *Be it further enacted*, That said corporation shall have no power to divide any dividend of the profits of said road until all the debts for which the State is responsible on account of said corporation, shall be fully discharged, both principal and interest,



but it shall be the duty of the President and Directors of said corporation to set aside annually all the surplus profits of said road as a sinking fund to discharge the several responsibilities of the State as they may severally become due and said President and Directors shall at every session of the Legislature, make report of the receipts and expenses of the road how the surplus has been invested, which shall be subject to the approval or disapproval of the Legislature.

SEC. 15. *Be it further enacted*, That in case the Raleigh and Gaston Railroad Company fails to assent to this act, or to pay the interest that may accrue upon the debt which has been endorsed for them by the State, according to the act of one thousand eight hundred and thirty-nine, then in order to protect the honor and faith of the State and preserve the credit of North Carolina, the Public Treasurer is hereby directed to pay the interest which may accrue before the next meeting of the General Assembly out of any money in the Treasury, and if it be necessary he is hereby authorized to borrow money for that purpose upon the best terms he can, and to pay the interest so due and unpaid by the company and this provision shall be in force from and after the ratification of this act.

If the Company do not assent to this act, or pay the interest that may accrue on the debt endorsed by the State, the Public Treasurer is directed to pay the interest, if he have to borrow the money.

SEC. 16. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

[*Ratified the 12th day of January, 1841* ]

The following resolution was ratified 25th of January, 1843.

#### RESOLUTIONS CONCERNING THE BONDS OF THE RALEIGH AND GASTON RAILROAD COMPANY.

WHEREAS, by an act of the General Assembly at the last session entitled "An act to secure the State against any



and every liability incurred for the Raleigh and Gaston Railroad Company, and for the relief of the same", it was among other things, provided that the bonds given by the stockholders, and others for five hundred thousand dollars should be renewed every two years, or that the same be put in suit, *and whereas*, it may become necessary that the bonds of other persons should be substituted in lieu of those which have been already executed, pursuant to the provisions of said act.

Power to substitute new indemnifying bonds.

*Resolved therefore*, That the Governor, Treasurer and Comptroller, be, and they are hereby authorized to substitute and receive the bonds of other persons in lieu of those already executed, whenever it may become necessary to renew the same, taking care that the bonds so substituted be well and satisfactorily secured agreeably to the provisions of the act of 1840.

(*Ratified the 25th day of January, A. D. 1843.*)

The following Act was ratified 26th of January, 1843.

AN ACT TO AMEND THE CHARTERS OF THE SEVERAL RAILROADS IN THIS STATE.

All railroads to keep in repair bridges across public roads crossed by them.

SECTION. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the Raleigh and Gaston Railroad, the Raleigh and Wilmington Railroad and all other railroads within this State shall, and they are hereby compelled to keep at their expense, in proper repair all bridges by them erected and which it is the duty of said companies to keep up across any public road or roads; and should they fail so to do, each and every such railroad company shall forfeit and pay a fine of twenty-five dollars, over and above such damages as may be sustained to any person who shall sue for the same and which said penalty shall be recoverable by warrant returnable before any Justice of the Peace in the county

Penalty.

in which the bridge is situated and which is not kept in proper repair by such company or companies. *Provided*, That said penalty shall not be incurred until ten days have elapsed from the time said bridge or bridges shall have been out of repair and all laws and clauses of laws coming in conflict with this act are hereby repealed.

[*Ratified the 26th of January A. D., 1843.*]

The following act was ratified 6th January, 1845.

AN ACT TO AUTHORISE THE FORECLOSURE OF THE MORTGAGE OF  
THE RALEIGH AND GASTON RAILROAD.

WHEREAS, by an act of the General Assembly begun Preamb'e.  
and held on the third Monday of November, one thousand eight hundred and thirty-eight, entitled "An act for the relief of the Raleigh and Gaston Railroad Company," it was provided, among other things, that the Treasurer of the State should endorse the bonds of the said Company to the amount of five hundred thousand dollars, for the use and benefit of said Company, and the said Company should execute a mortgage on the road and other property, real and personal, to secure the State from any loss by reason of its endorsement of said bonds, and also to pledge the profits of the road for payment of interest on the same; *and whereas*, it was also provided in said act, that the General Assembly might at any time appoint a committee to enquire into the insolvency of said Company; *and whereas*, at a session of the General Assembly begun and held on the third Monday of November, one thousand eight hundred and forty, an act was passed, entitled "An act to secure the State against any and every liability incurred for the Raleigh and Gaston Railroad Company, and for the relief of the same," which act also provided, among other things, for the endorsement by the State of bonds to the amount of three hundred thousand dollars for the use and benefit of said Company, and required the Company on their part, to execute and de-

liver to the Treasurer individual bonds of the stockholders and other subscribers, to the amount of five hundred thousand dollars, to secure that amount of liabilities incurred by the State for said Company under the act of one thousand eight hundred and thirty-eight; and also to execute and deliver a mortgage of the road and other property, real and personal, belonging to the company, to secure the State against any loss by reason of its endorsements of the bonds endorsed under that act; *and whereas* the said act also provided that the General Assembly might at any time appoint a committee to inquire into the solvency of the company and its inability to pay its debts; *and whereas*, at the present General Assembly, a committee has been appointed to inquire into the insolvency of said company and its inability to pay its debts; *and whereas*, at the present General Assembly, a committee has been appointed to inquire into the insolvency of said company, who have reported that the Raleigh and Gaston Railroad Company is unable to pay its debts and is insolvent, which said report has been affirmed by this General Assembly.

Governor to cause  
foreclosure of  
mortgage.

SECTION 1. *Therefore be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be the duty of the Governor of the State to cause the mortgages made and executed by the President and Directors of the Raleigh and Gaston Railroad Company to be foreclosed in the Superior Court for the county of Wake, at its next term in April 1845. In case the defendant, having been duly served with process, shall fail to answer within the three first days of the term, judgement *pro confesso* shall be entered, and the cause set for hearing, and shall be heard and decided during the term. If the defendant shall appear and respond to the bill by plea, answer or demurrer, it shall be the duty of the court to hear and decide the case as to the prayer for foreclosure and sale during the term, unless good and sufficient cause for de-

Judgment *pro-*  
*confesso*, if no an-  
swer.

If answer trial  
without delay, un-  
less just cause to  
the contrary—then  
Court to be ad-  
journd.

lay be made to appear to the court, in which case the court shall adjourn the case to the earliest day practicable for preparing for a final hearing; and the Judge holding such court, or any other Judge whom the Governor may designate, shall hear the cause at the appointed time; and in case the court shall adjourn the hearing to another day, the court may make such rules and orders for preparing and expediting the trial as may seem agreeable to equity. If on the hearing, the court shall decree a sale of the mortgaged property, the court shall adjourn the cause to some future day, for the purpose of receiving the report of the commissioners appointed to make sale and if the same be confirmed either then or afterwards, the residue of the cause shall stand adjourned to the ensuing Court of Equity for Wake county and shall be therein and thereafter conducted as other causes in equity. If the sale shall not be confirmed the court shall take such order in the cause for effecting the sale as may be agreeable to the rules of Courts of Equity, and the court shall have full power and authority to adjourn the cause from day to day and from time to time, until the sale be made, or the bill dismissed. And from any order or decree of the court, which may be made in the premises, where appeals are now allowable, an appeal may be taken to the Supreme Court of the State, upon such terms as are usual and prescribed by law.

How adjourned  
Court shall proceed.

SEC. 2. *Be it further enacted*, That the Judge, for performing the extra services hereby required, shall be allowed the sum of ninety dollars.

Allowance to  
Judge for extra  
services.

SEC. 3. *Be it further enacted*, That it shall be the duty of the court, at the time of rendering such decree, to name and appoint the Treasurer of the State Commissioner to sell said road and other property, both real and personal, which may be decreed to be sold; and it shall be the duty of said commissioner to advertise the time

Commissioners to  
sell road.

and place of such sale, for at least 60 days in one or more of the newspapers published in each of the cities of Boston, New York, Baltimore, Philadelphia, Richmond Va., Charleston, S. C., Mobile, Ala., New Orleans, and two of the papers published in Raleigh, setting forth the property proposed to be sold and the terms of sale.

Governor to b:d.

SEC. 4. *Be it further enacted*, That the Governor of the State be, and he is hereby authorized and directed to bid on the said road and other property directed to be sold, for and on behalf of the State, a sum not exceeding three hundred thousand dollars, and the interest unpaid by the company on the bonds executed and endorsed in pursuance of the Act of the General Assembly passed in 1840-'41 entitled " An Act to secure the State against any and every liability incurred for the Raleigh and Gaston Railroad Company and for the relief of the same."

If State become purchaser, officer how appointed.

SEC. 5. *Be it further enacted*, That should the Governor of the State under the preceding section become the purchaser for the State of the road and other property, it shall be the duty of the Board of Commissioners hereinafter named to appoint a President and other officers necessary to manage and conduct the same on behalf of the State until such time as the State can make some other disposition of the same which disposition is hereby directed to be made at the earliest day consistent with a due and proper regard for the safety and indemnity of the State and said board shall fix the rate of compensation to be allowed to said President and other officers to be appointed by them.

Who shall be commissioners.

SEC. 6. *Be it further enacted*, That the Governor of the State for the time being, the Treasurer and Comptroller, be, and they are hereby constituted the board mentioned in section fifth, and that said board be and they are hereby declared a Directory for the management of said road and its concerns, for and on behalf of the State, and that



they be allowed three dollars a day when actually employed about the same.

SEC. 7. *Be it further enacted*, That should any vacancy happen in said board, by death, refusal to act, or otherwise, the same shall be supplied by a majority of the acting members.

Vacancy in board,  
how supplied.

SEC. 8. *Be it further enacted*, That should the State become the purchaser of said road and other property sold by decree of Court, the Governor, by and with the advice and consent of his council, shall have full power and authority to sell and convey the same to any individual, association of individuals, company or companies, for the most that can be obtained for the same, upon such credits as are hereinafter specified in case of sale by the commissioner, and shall take proper and sufficient securities from the purchaser, to be judged of by the board aforesaid. And if the Governor shall have offers made for the purchase of the road and property bought as aforesaid by the State, which in his opinion ought to be considered, he shall convene his council, who shall consider the proposals and decide upon them.

Governor may sell  
the road.

SEC. 9. *Be it further enacted*, That the Governor, if he and his council shall deem it advisable, may open books for subscription of stock, and when the sum of four hundred thousand dollars shall be subscribed and paid into the Treasury, or be well secured by personal security and a lien on the shares respectively subscribed, payable in equal instalments, upon a credit of one and two years, with interest, the subscribers shall be a body corporate: *Provided*, the personal security herein alluded to shall be for the full amount of the sum, the road may sell for, and the lien on the shares herein mentioned shall be an additional security.

Governor may  
open books of sub-  
scription.

Purchaser to have  
all the franchises,  
&c.

SEC. 10. *Be it further enacted*, That the purchaser or purchasers who may buy at the sale which may be made either under decree of Court, or by the Governor and council, shall be in like manner a body corporate, and any body corporate by this act created, shall be such under the name and style of the present Company, and shall hold, use and employ said railroad, with all its appurtenances, for the residue of the time yet unexpired for which the present charter was granted by the State, with all the franchises, privileges, rights and immunities granted and conferred at any time heretofore by the State, subject in all respects and in every thing to all the duties, regulations and penalties required, prescribed and imposed by any law or laws now in force respecting the present Company: *Provided*, That the title to no part of said property shall pass to the said purchaser, until the payment of the whole amount of the purchase money; and said road shall be deemed a common highway.

Purchase money,  
security for.

SEC. 11. *Be it further enacted*, That should any one purchase other than the State, under the decree aforesaid, it shall be the duty of the Governor for the time being, to take from such purchaser bond or bonds, with such surety for the payment of the purchase money, as shall be deemed by him to be amply good and sufficient.

Penalty for injuring  
road.

SEC. 12. *Be it further enacted*, That any person injuring said railroad, whether owned by the State or any other purchaser or purchasers, shall be subject to the same actions for penalties and damages as are now allowed for injuries to the road; and said actions shall be sued and prosecuted in the manner now prescribed; and all such acts as are now offences against the State, when done to any part of the road, shall be offences when done under the same circumstances, to any part of the road after sale, and shall be indictable and punished in like manner.

SEC. 13. *Be it further enacted*, That it shall be the duty of the commissioner to make the sale which may be decreed, at the city of Raleigh, and on the following terms, that is twenty-five thousand dollars of the purchase money, shall be paid on or before six months from the day of sale, and the residue of the purchase money shall be divided into four equal instalments, to be paid at intervals of ten months ; the first of said instalments to be paid in sixteen months after the day of sale, and the whole purchase money to bear interest from the day of sale.

Sale, terms of and where to be made.

SEC. 14. *And be it further enacted*, That the proceeds arising from the foreclosure of the mortgage herein directed to be made, shall be paid into the Public Treasury and held as a fund, subject, first to discharge all the liabilities the State has incurred under the act ratified January twelfth, one thousand eight hundred and forty-one, entitled, "an act to secure the State against any and every liability incurred for the Raleigh and Gaston Railroad Company, and for the relief of the same," and the surplus, if any, shall be retained in the Public Treasury, to secure the State against the liabilities incurred under the act passed in one thousand eight hundred and thirty-eight and one thousand eight hundred and thirty-nine, entitled "an act for the relief of the Raleigh and Gaston Railroad Company."

Proceeds how disposed of.

SEC. 15. *Be it further enacted*, That should the said Raleigh and Gaston Railroad not sell for a sum sufficient to discharge all the liabilities incurred by the State under the act of January, one thousand eight hundred and forty-one, entitled "an act to secure the State against any and every liability incurred for the Raleigh and Gaston Railroad Company, and for the relief of the same," or should the Governor purchase the same on behalf of the State, then it shall be the duty of the Governor to take such measures, under the acts of one thousand eight hundred and thirty-eight and one thousand eight hundred and

Measures in case of deficiency.

thirty-nine, and January, one thousand eight hundred and forty-one, as may in his judgment, best secure the other liabilities of the State.

Operations on  
road, when to be  
stopped.

SEC. 16. *And be it further enacted*, That when it shall appear that the proceeds of said road are insufficient to keep said road in repair and pay all the expenses of running the same, then it shall be the duty of the Governor to stop all operations on the road.

*(Ratified the 6th day of January, 1845.)*

The following act was ratified 16th of January, 1847.

AN ACT TO ENFORCE THE STATE'S INDEMNITY AGAINST LOSS ON  
ACCOUNT OF HER SURETYSHIP FOR THE RALEIGH AND GAS-  
TON RAILROAD COMPANY.

Treasurer to give  
notice and call for  
pay.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That it shall be the duty of the Public Treasurer, as soon as may be practicable after the passage of this act, to give notice by public advertisement, in two newspapers printed in the city of Raleigh for the space of one month, that the real and personal estate of the Raleigh and Gaston Railroad Company has proved insufficient to discharge the debts of the said company, in which the State of North Carolina was surety; by reason of which large sums have been paid, and remain to be paid by the State on account of said suretyship; and to require all persons who are bound for the State's indemnity in the premises either as stockholders under the 14th section of the act of 1839 for the relief of the company aforesaid, or as stockholders, subscribers, or substitutes, by the acceptance of said company of the provisions of the act of 1841, entitled "An act to secure the State against any and every liability for the Raleigh and Gaston Railroad Company, and for the relief of the same," or by entering into bonds under the last mentioned act to make payment into Pub-

lic Treasury within one month from the date of said advertisements, of the sum or sums for which they are bound respectively in consequence of their liabilities in any of the modes before specified.

SEC. 2. *Be it further enacted*, That in case of failure or refusal of any of the stockholders, subscribers or substitutes aforesaid to make payment as herein before required then it shall be the duty of the Attorney General to bring suit against any and all of such stockholders, subscribers or substitutes, severally or jointly, in law or in equity as he shall judge most expedient, to enforce and compel the payment of the sum or sums in which they are under obligations for the State's indemnity as before stated. *Provided*, that if a Court of Equity shall be resorted to, it does and shall possess jurisdiction of suits on the bonds aforesaid, as well as on the liability created by the acceptance of the benefits of the respective acts of the General Assembly aforesaid or either of them.

Attorney General  
to bring suit  
against delin-  
quents.

SEC. 3. *Be it further enacted*, That in the event of any such suit being instituted, the proof of the advertisement directed in the first section of this act, shall be held and deemed to be a sufficient demand and notice to the defendants to require him, her, or them to make good his liability to the State, as far as he may be otherwise bound in law or equity in any court in which the same may be pending.

Sufficient demand

SEC. 4. *Be it further enacted*, That the list of bonds in the office of the Public Treasurer, to which is appended the certificate of the Governor, that from the best information he has been able to obtain upon due enquiry, that in his opinion, the obligors of said bonds were able to pay the amounts secured by said bonds, bearing date the 30th day of April, A. D. 1841, shall be deemed and taken to be evidence that the full amount of five hundred thousand dollars was secured to the State for her

Indemnity secur-  
ed the State.



indemnity, according to the proviso of the 6th section of the act of the 12th day of January, 1841, before recited.

Court, jurisdiction of.

SEC. 5. *Be it further enacted*, That the Superior Court of Law or Equity for Wake county, at the option of the Attorney General, shall have and entertain jurisdiction of any and all suits instituted upon the subject matter herein before stated.

Sums recovered.

SEC. 6. *Be it further enacted*, That any and all sums paid or recovered as aforesaid, shall be received into the Public Treasury and applied to the indemnity of the State, to save her harmless as far as possible, against loss or damage on account of her suretyship aforesaid for the Raleigh and Gaston Railroad Company.

Proceed in Equity.

SEC. 7. *Be it further enacted*, That if the Attorney General shall deem it advisable to proceed in a Court of Equity, against the stockholders in said company, or others jointly, it shall not be the duty of the clerk and master to issue a separate *capias* and *subpœna* to each defendant, but it shall be his duty to issue a *subpœna* only to each defendant residing in the State, and make publication for six successive weeks in some newspaper published in the city of Raleigh, and in one published in Petersburg in the State of Virginia, notifying all the defendants to be and appear before said court, and make their defences, and this when done, shall be held to be sufficient notice and service on all and each of the defendants. *Provided however*, That if any of such defendants shall desire a copy of the bill, it shall be the duty of the clerk and master of said court to furnish them at the cost of the applicant.

Set off against State's liability.

SEC. 8. *Be it further enacted*, That if any of those liable to the State in any of the forms, or on account of either or both of said acts of Assembly or the pledges or bonds given in pursuance thereof, shall be the owner or holder of

any of the bonds made and endorsed under the provisions of either of such owner or holder of the bonds so endorsed shall be deemed and held to be a set off against so much of the State's liability to such bondholder, and no assignment or transfer of such bond hereafter made, shall be allowed to defeat the provisions of this section, nor shall it be lawful for any such transfer to be made on the books of the Treasurer, but in all instances of application to transfer any bond or bonds now owned by any one liable to the State aforesaid, it shall not be allowed, unless it is made to appear to the Treasurer, that such owner has and owns other bonds not proposed to be transferred equal in amount to his liability to the State.

*(Ratified the 16th day of January, 1847.)*

The following act was ratified 18th of January. 1847.

AN ACT FOR THE PRESERVATION OF THE RALEIGH AND GASTON  
RAILROAD.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same,* That the Governor be, and he is hereby authorized and required to expend and lay out or cause to be laid out and expended, for the repairs and improvement of the Raleigh and Gaston Railroad, the profits arising from transportation and passengers on the said road, or so much thereof as may be required to keep the said road in good repair and improve its present condition.

Governor to expend profits from road in repairs and improvements.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

*[Ratified 18th of January, 1847.]*

The following act was ratified the 18th day of January, 1847.

AN ACT TO PROVIDE FOR THE TRANSFER OF THE BONDS OF THE  
RALEIGH AND GASTON RAILROAD COMPANY, ENDORSED BY  
THE STATE.

Form and manner  
of transferring  
bonds.

SECTION. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That whenever any holder of a bond of the Raleigh and Gaston Railroad Company, issued by virtue of the act of the General Assembly, ratified the seventh day of January, A. D. one thousand eight hundred and thirty-nine, entitled "an act for the relief of the Raleigh and Gaston Railroad Company," or of the act ratified the twelfth day of January, A. D. one thousand eight hundred and forty-one, entitled "an act to secure the State against any and every liability incurred for the Raleigh and Gaston Railroad Company, and for the relief of the same," and endorsed by the public officers, as directed in said act, so as to bind the State as surety therefor, shall have agreed to sell such bond to any other person, then it shall, and may be lawful for the Public Treasurer, upon such bond being surrendered to, and cancelled by him, to issue to the purchaser thereof a new bond, in the form described as follows, to wit: No. ——— dollars, the State of North Carolina promises to pay to ——— the sum of ——— dollars, with interest thereon, at the rate of six per centum, per annum, from the date hereof until paid; the principal to be paid on the first day of January, ———, and the interest payable semi-annually on the first Monday in July, and the first Monday in January, in each and every year, after the date hereof, at the Public Treasury, in lieu of a like amount of bonds of the Raleigh and Gaston Railroad Company, in which the State was surety under the provisions of an act of the General Assembly, ratified the

seventh day of January, A. D. one thousand eight hundred and thirty-nine, or the twelfth day of January, A. D. one thousand eight hundred and forty-one, as the case may be, entitled "an act, &c.," (here reciting the bills which have been surrendered up and cancelled, in conformity with the provisions of this act, (reciting the ratification and title of this act:)

"In testimony whereof, \_\_\_\_\_, Public Treasurer, has hereunto set his hand, and \_\_\_\_\_ Comptroller of Public Accounts, hath attested these presents, this — day of —, A. D. —."

SEC. 2. *Be it further enacted*, That the new bonds allowed by this act to be issued, shall be transferable at the Public Treasury by the holders of the same, or by his agent or attorney, in a book to be kept for that purpose; and all bonds issued by virtue either of the first or second section of this act, shall be duly registered by the Public Treasurer.

Bonds transferable at the Treasury, and to be registered.

SEC. 3. *Be it further enacted*, That the faith of the State, shall be and is hereby pledged to the holders of the bonds issued under this act, for the payment as fully, to all intents and purposes, as it now is for the bonds of the Raleigh and Gaston Railroad Company aforesaid.

Faith of the State repledged.

SEC. 4. *Be it further enacted*, That this act shall be in force from and after its ratification.

[*Ratified 18th of January, 1847.*]

The following Resolutions were ratified 27th January, 1849:

#### RESOLUTIONS ON THE SUBJECT OF THE RALEIGH AND GASTON RAILROAD.

1. *Resolved*, That the Public Treasurer be, and he is \$21,148 appropriated.

hereby directed to pay the commissioners appointed by law to manage the Raleigh and Gaston Railroad, the sum of twenty-one thousand one hundred and forty-eight dollars, to be applied under their authority to the payment of certain debts contracted on account of said railroad, and reported to be due by the President of the road, in his report to the said Board of Commissioners, dated first November, one thousand eight hundred and forty-eight, and for the repair of an engine now in Petresburg, whenever the said Board of Commissioners shall satisfy themselves that the said debts are justly due, and the said Board of Commissioners are hereby directed to report to the next General Assembly the names of the persons to whom the said sum has been paid and the amount due to each.

Treasurer may  
borrow.

2. *Resolved*, That if the present condition of the Treasury does not enable the Public Treasurer to pay the sum before mentioned, he is hereby authorized to borrow the same of either of the banks of this State, at a rate of interest not exceeding six per cent. per annum, which sum so borrowed he is directed to repay whenever the Public Treasury shall enable him to accomplish the same.

Not to run at  
State's expense.

3. *Resolved further*, That the Raleigh and Gaston Railroad shall not be further run at the expense of the State.  
(*Ratified 27th day of January, 1849.*)

The following Act was ratified 27th January, 1849 :  
Such sections only are given as affect the Raleigh and Gaston Railroad Company :



AN ACT TO INCORPORATE THE NORTH CAROLINA RAILROAD  
COMPANY.

SECTION 45. *Be it enacted*, That for the purpose of putting the Raleigh and Gaston Railroad in good and complete order for the profitable transportation of persons and produce, and for the further purpose of reviving the late Raleigh and Gaston Railroad Company, Rhodes N. Herndon, Thomas Miller, John S. Eaton of Granville county; William J. Hawkins, Weldon N. Edwards, George D. Baskerville of Warren county, George W. Mordecai, Richard Smith, W. W. Holden, of Wake county John D. Hawkins, Sr., Allen C. Perry, John D. Hawkins, Jr., of Franklin county; and the late stockholders of and obligors for the Raleigh and Gaston Railroad Company, or any part of them, and such other persons and corporations as may associate with them, are hereby created a body politic and corporate, by the name and style of the Raleigh and Gaston Railroad Company, and by that name shall be able to sue and be sued, and shall have, possess and enjoy all the rights, franchises, powers, and privileges, vested in and granted to the Raleigh and Gaston Railroad Company, by an act entitled "An act to incorporate the Raleigh and Gaston Railroad Company," passed by the General Assembly of this State, on the——day of———and shall be subject to all the restraints, limitations, restrictions and liabilities imposed by the said act, and all the other provisions of the said act, so far as the same remain to be executed, are hereby declared to be in full force and effect, upon the following terms and conditions nevertheless.

Raleigh and Gaston Road.

SEC. 46. *Be it enacted*, That whenever the said persons, Condition and their associates named in the foregoing section, shall have subscribed the sum of five hundred thousand dollars for the purposes aforesaid, and shall have expended the same in putting the Raleigh and Gaston Railroad in full and complete order with heavy T rail iron, or other

iron equally good, not weighing less than fifty pounds to the yard, then one-half of the said railroad with all the machine shops, depots, water stations, engines, coaches, cars and every other property appertaining to the said railroad, shall be sold conveyed and transferred to the said subscribers, their heirs and assigns, by the Governor under the great seal of the State; and the said late stockholders and obligors of the said Raleigh and Gaston Railroad Company, shall be and are hereby declared to be forever released and discharged from all liability to the State, for and on account of the said Raleigh and Gaston Railroad Company, upon the payment of costs incurred, and the Governor is hereby authorized, and it is declared to be his duty to suspend the further prosecution of suit brought by the State against the said stockholders and obligors, until it can be ascertained whether the said subscribers are willing to accept the conditions of this act, and that they shall be allowed two years from the passage of this act to make known their determination to the Governor, and if the terms and conditions of this act, shall be accepted and the work commenced within two years, and finished within three years from the ratification of this act, then this act shall continue and be in full force for ninety years and no longer.

May mortgage.

SEC. 47. *Be it further enacted*, That if the conditions of this act are accepted, and the sum of five hundred thousand dollars shall have been subscribed by solvent subscribers, to be judged of by the Governor and Attorney General, then and in that case, the said subscribers shall have lawful authority to mortgage one-half of the said Railroad, to enable them to obtain the necessary credit to purchase a part of the iron which will be needed for said road.

If terms not accepted.

SEC. 48. *Be it further enacted*, That if the said subscribers shall refuse or neglect to accept the terms and conditions of this act, then all the benefits of the same shall

be granted to Thomas F. Wyatt, John Campbell, Thomas P. Devereux, Andrew Joyner, Weldon N. Edwards, George D. Baskerville and Alexander Hawkins, and such other persons as may associate with them, who shall accept and comply with all the terms and conditions of the same, and they and their successors are hereby incorporated into a company by the name and style of the Raleigh and Gaston Railroad Company, and by that name shall have lawful authority to sue and be sued, to hold, possess and enjoy all the rights, franchises, powers and privileges granted by this act and shall be subject to all the restraints, limitations, restrictions and liabilities imposed by the same.

SEC. 49. *Be it enacted*, That whenever the Roanoke Railroad Company, or the Seaboard and Roanoke Railroad Company, with or without the aid of individuals, shall subscribe to the Raleigh and Gaston Railroad Company one-half of the sum necessary to construct a railroad from some convenient point on the Raleigh and Gaston Railroad, near the Littleton Depot, or any point between that depot and Roanoke river, and the town of Weldon, or any point in the neighborhood thereof, so as to connect with the Wilmington and Raleigh Railroad, and shall expend the said sum in forming the said connection, then the said Raleigh and Gaston Railroad shall be extended to the said town of Weldon or neighborhood thereof; and the Public Treasurer is hereby authorised and directed to subscribe for an equal sum for and in behalf of the State, and pay for such subscription out of any money in the Treasury not otherwise appropriated; and for the want of such money in the Treasury the Public Treasurer is hereby authorised to borrow the sum at a rate of interest not exceeding six per cent. per annum, and to issue bonds payable at any time within ten years for not less than five hundred dollars each.

State subscription  
for connecting  
with other road.

SEC. 50. *And be it further enacted*, That one of the conditions of this charter is that this General Assembly shall

Power of Assem-  
bly.

have power and authority at any future session to establish, regulate and control the intercourse between the North Carolina Railroad and the Raleigh and Gaston Railroad, so as best to secure to the public an easy and convenient passage of persons and property.

SEC. 52. *Be it further enacted*, That as soon as the said North Carolina Railroad is commenced, and the superstructure of the same laid down at Raleigh, the owners, proprietors and authorities of the Raleigh and Gaston Railroad shall be, and they are hereby authorised and empowered to effect a junction and form an actual connection with the said North Carolina Railroad, at such point at or in the vicinity of Raleigh, as they in their discretion may select.

Junction.

(*Ratified 27th day of January, 1849.*)

The following Resolution was ratified 29th January, 1849 :

RESOLUTION TO PROTECT THE INTEREST OF THE STATE IN THE  
RALEIGH AND GASTON RAILROAD.

Appropriation for  
iron.

*Resolved*, That the sum of fifteen thousand dollars be appropriated for furnishing iron for repairing the Raleigh and Gaston Railroad, to be expended under the direction of the commissioners of said road ; and that the Treasurer advance the same out of any money in the Treasury not otherwise appropriated, and that he be allowed the same in the settlement of his accounts.

Stockholders to  
pay.

*Resolved further*, That the aforesaid sum of fifteen thousand dollars shall be paid by the stockholders of the said Company, should they accept the terms as proposed in the act for the revival of the Raleigh and Gaston Railroad passed at the present session of the General Assembly, entitled "an act to incorporate the North Carolina Railroad Company.

*Be it further resolved*, That this resolution shall be in force from and after its ratification.

*(Ratified 29th day of January, 1849.)*

The following Resolution was ratified 28th January, 1851:

RESOLUTION AUTHORIZING REPAIRS OF THE RALEIGH AND GASTON RAILROAD.

*Resolved*, That the President and Commissioners of the Raleigh and Gaston Railroad be authorized to anticipate the usual receipts of said road by the purchase on time of two hundred and fifty tons of iron for the purpose of repairing said road, and that they be authorized to pledge the receipts of said road for the payment of said debt; and the said iron, when the charter shall be accepted by the stockholders under the charter granted by this present General Assembly, shall be sold for the benefit of the State.

Purchase of 250 tons of iron on time.

*Provided*, That the State shall not in any manner or in any event, be held responsible or liable for the purchase money which may be due for said two hundred and fifty tons of iron.

State not liable for purchase money.

*[Ratified the 28th day of January, 1851.]*

The following Act was ratified 29th January, 1851:

AN ACT TO INCORPORATE THE RALEIGH AND GASTON RAILROAD COMPANY.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same*, That Duncan Cameron, Richard Smith, William Boylan, George W. Mordecai, E. P. Guion, C. L. Hinton, W. W. Holden, W. J. Clark of Raleigh; John D. Hawkins, William F Hilliard, John D Hawkins, Jr., Isaac H. Davis and James J. Thomas of Franklin county;

Commissioners to open books for subscriptions.



Rhodes Herndon, R. B. Gilliam, R. Kingsbury, T. B. Venable of Oxford; John H. Eaton, of Henderson; G. D. Baskerville, H. L. Plummer, John Somerville, H. G. Goodloe, B. E. Cook. Thomas Paschal, Samuel Philips, Thomas E. Wilson, Wm. J. Hawkins, John D. Fain and Nat T. Green of Warren county; Cad Jones, Sr., Edmund Strudwick, Jno. W. Norwood, Osmund Long, Josiah Turner, Sr., John U. Kirland, of Orange county; and such other persons as may associate with them, their heirs and assigns, shall be and they are hereby incorporated into a company by the name and style of the Raleigh and Gaston Railroad Company, separate and distinct, and wholly unconnected with the company lately existing by the same name, and by that name shall be capable in law of purchasing, holding, selling and conveying estates, real, personal and mixed, so far as shall be necessary for the purposes hereinafter mentioned, and no further, and shall have perpetual succession, and by said corporate name may sue and be sued, may have and use a common seal; and shall have and enjoy, and exercise all the rights, powers and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may, from time to time, make all such by-laws, rules and regulations not inconsistent with the constitution and laws of this State, as shall be necessary for the well ordering and conducting the affairs of the Company upon the following fundamental terms and conditions nevertheless, viz:

Corporate powers,  
&c.

Amount of capital  
and manner of re-  
building road.

SEC. 2. That the capital stock of the said Company shall be eight hundred thousand dollars, the money part of which shall be used for the purpose of rebuilding the road, now the property of the State, and known as the Raleigh and Gaston Railroad, with a T iron rail, or iron of other form equally good, weighing not less than fifty pounds to the lineal yard, and other suitable materials, and to properly stock and equip the same with necessary engines and cars to do the transportation thereon; that

the present Railroad, known as the Raleigh and Gaston Railroad, with all its machine shops, implements, warehouses, depots, water stations, engines and cars, and every other description of property appertaining to the same, shall form a part of the capital stock of the said Company to the amount of four hundred thousand dollars, which amount shall be owned by the State of North Carolina in the said Company; that solvent individuals shall subscribe for the remaining four hundred thousand dollars of the capital stock of the said Company, and after having so subscribed and paid the sum of four hundred thousand dollars towards the reconstruction of said road and in refitting the same for public use, then the said subscribers and their successors shall be entitled to receive and hold one half of the interest in the Raleigh and Gaston Railroad Company as is by this act incorporated.

SEC. 3. *Be it enacted*, That it shall be lawful for the persons mentioned in the first section of this act or any three of them, to open books under their own management, or the direction of such other persons as they may select, and at such times and places as they may think proper for the purpose of receiving subscriptions to the capital stock of the said Company to the amount of four hundred thousand dollars in shares of one hundred dollars each. The times and places for receiving subscriptions shall be advertised in one or more newspapers in the State and the books shall be kept open for ninety days. At the expiration of that time all the books of subscription shall be returned to the individuals first named at Raleigh; and if it shall appear that four hundred thousand dollars shall have been subscribed to the capital stock of said Company by solvent subscribers then the books shall be closed, and if more than four hundred thousand dollars shall have been subscribed the same shall be reduced to that sum in fair and equal proportions, to the number of shares subscribed for by each stockholder. Preference shall be given to the stockholders and obligors of the late Raleigh and Gaston

Time, &c., of  
opening books.

Preference, &c.

Railroad Company during the first ninety days in which books are to be kept open to subscribe all or any part of the said capital stock of the said company, and if upon the return of the said books the said sum of four hundred thousand dollars shall not have been subscribed then said books shall be re-opened for ninety days, at such time and places and under the direction of such commissioners as any three of the persons named in the first section of this act shall designate, and if the capital stock aforesaid, shall not have been subscribed at the expiration of the said ninety days, it shall be lawful to re-open said books and keep them open until the first of October next.

Inducement to  
Stockholders, &c.,  
to subscribe.

SEC. 4. *Be it further enacted*, That as as an inducement to the stockholders and all such persons as may have become bound to indemnify the State against loss by reason of the loans made to the Raleigh and Gaston Railroad Company and guaranteed by the State according to the provisions of the several acts of Assembly passed in the years one thousand eight hundred and thirty-eight and one thousand eight hundred and forty, to subscribe for stock in the company hereby incorporated; that whenever the sum of four hundred thousand dollars shall have been thus subscribed, and shall have been paid and expended by said company in putting the Raleigh and Gaston Railroad in full and complete order, then the said stockholders and obligors shall be forever discharged from their liability to the State by reason of the loans and guarantees aforesaid, and the Governor is hereby authorized to cause the suits now pending in Wake Superior Court against said persons to be suspended until such time as he may be fully satisfied that the sum of four hundred thousand dollars has been subscribed and paid to said company, whereupon, the said suits are to be dismissed at the costs of defendants. *Provided*, that the work be commenced within one year, and completed within three years from and after the ratification of this act.

SEC. 5. *Be it further enacted*, That it shall be lawful for the executor or administrator of any deceased person, who became bound in their life time to indemnify the State of North Carolina against loss by reason of loans made to the Raleigh and Gaston Railroad Company, and guaranteed by the State according to the provisions of the several acts of Assembly, passed in eighteen hundred and thirty-eight and eighteen hundred and forty, to subscribe for any amount of stock in the company hereby incorporated, not exceeding the amount of said deceased person's liability to the State; and such subscriptions shall bind the estate of the testator or intestate, and the heirs, devisees, legatees or next of kin, as the case may be, shall not charge the personal representative aforesaid as for a *devastavit* or otherwise; and in case the said heirs, devisees, legatees, or next of kin, shall attempt so to do, then no part of the provisions of this act for releasing the sureties to the State as aforesaid shall enure to the benefit, relief or discharge of the testator or intestate or his property and estate, whose heir, devisee, legatee, or next of kin, shall object to the subscription for stock by such executor or administrator, but the said testator or intestate and his property and estate shall remain liable as now they are or may be, in all respects, as if this act had not been passed.

Executor or administrator may subscribe.

SEC. 6. *Be it further enacted*, That where the property and estate of any infant under twenty-one years of age, shall be liable to the demands of the State on account of the loan and guaranty in the preceding sections mentioned, it shall be lawful for the guardian of such infant to subscribe in behalf of his ward for stock in the company hereby incorporated to an amount not exceeding the sum for which the property and estate of such ward is or would be liable to the State as aforesaid; and in case the said ward should attempt to make his guardian liable to account to him or her for anything more than the stock so subscribed and paid by his guardian, then no

Guardian may subscribe.



part of the provisions of this act for releasing the sureties to the State as aforesaid shall enure to the benefit, discharge or relief of the said infants property and estate, but the same shall remain bound as it now is or may be, in all respects, as if this act had not been passed.

Duty in war.

SEC. 7. *Be it further enacted*, That in case of a domestic invasion or insurrection the said company shall transport the troops and munitions of war of the State of North Carolina free of charge.

Road, &c. in  
whom vested.  
Votes.

SEC. 8. *Be it enacted*, That the said railroad and all engines, cars and vehicles, and all the works of said company, together with all profits which shall accrue from the same, shall be vested in the said company, one-half thereof to the use and benefit of the State and the other half to the use and benefit of the individual stockholders and the same shall be deemed and held to be personal estate, and shall be exempt from any public charge or tax whatsoever for the term of fifteen years, and thereafter the Legislature may impose a tax not exceeding twenty-five cents per annum on each share of the capital stock held by individuals, whenever the annual profits shall exceed eight per cent.

No preference. &c.

SEC. 9. *Be it enacted*, That the said company shall give no undue preference to the property of one person over that of another, but as far as practicable, shall transport each in the order of time in which it shall be delivered or offered for transportation, the tolls thereon being first paid or tendered. And it shall be lawful for them to charge for the transportation of persons, goods, produce and merchandise, and for the mail, any sum not exceeding the following rates: On persons not exceeding six cents per mile for each person, unless the distance which any person may be transported should be less than ten miles, in which case an extra charge of fifty cents may be made for taking up and putting down such person,

Tolls.



for the transportation of produce, goods, wares, merchandise and other articles, not exceeding an average of eight cents per ton per mile, and for the transportation of the mail, such sum as may be agreed upon, between the company and the Post-office Department of the United States.

SEC. 10. *Be it enacted*, That in all general meetings of Votes. the said Company, each stockholder shall be entitled to give one vote for each share not exceeding ten shares, and one vote for every three shares above ten shares; and it shall be lawful for the Board of Internal Improvement to appoint some suitable person to represent the interest of the State in all such meetings, who shall have a right to vote on all questions coming before them, except in the election of the Directors to be appointed by the individual stockholders.

SEC. 11. *Be it further enacted*, That an annual meeting General meetings. of the subscribers to the stock of the said Company shall be held at such time and place, in each year, as the stockholders, at their first general or at any subsequent meeting, may appoint; to constitute which, or any general meeting called by the President and Directors, according to the provisions of this act, the presence of proprietors entitled to a majority of all the votes which could be given by all the stockholders, shall be necessary either in person or by proxy properly authorized; and if a sufficient number do not attend on that day, or any day appointed for a general meeting called by the Directors aforesaid, the proprietors who do attend may adjourn from time to time until such general meeting shall be had.

SEC. 12. *Be it further enacted*, That the President and Directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the stockholders. Accounts to be rendered.

Certificates of  
stock.

SEC. 13. *Be it further enacted*, That the President and Directors shall cause to be printed certificates of the shares of the stock in the said Company, and shall deliver one such certificate, signed by the President and countersigned by the Treasurer, to each person for the number of shares subscribed by him, which certificate shall be transferable by him, subject, however, to all payments due or to become due thereon ; and such assignee, having first caused the transfer or assignment to be entered in a book of the Company, to be kept for the purpose, shall thenceforth become a member of the Company aforesaid, and shall be liable to pay all sums due or to become due upon the stock assigned him: *Provided however*, That such assignment shall in no wise exempt the assignor or his representative from their liability to the said Company for the payment of all such sums, if the assignee or his representative shall be unable or fail to pay the same.

Charter, violation  
of.

SEC. 14. *Be it further enacted*, That when the General Assembly may be of opinion that the charter hereby granted shall have been violated it may be lawful by joint resolution of the two Houses, to direct the Attorney General with such assistant counsel as the Governor or Legislature may think proper to engage, to issue a writ of *scire facias*, returnable before the Judges of the Supreme Court, calling upon the said corporation to show cause why their charter shall not be forfeited, subject to the same proceedings as are now prescribed by law in case of other corporations. Their books shall at all times be open to the inspection of a committee of the General Assembly appointed for that purpose ; and the President of said Company shall biennially make a report to the Legislature, on or before the third week of their session, of their receipts and expenditures, and of such other of their proceedings as he shall deem proper.

Crossing roads.

SEC. 15. *Be it further enacted*, That any Railroad which may hereafter be constructed by the State, or by any

company incorporated by the Legislature, shall be at liberty to cross the road hereby allowed to be constructed upon a level or otherwise, as may be advantageous, provided the free passage of the Raleigh and Gaston Railroad is not thereby obstructed.

SEC. 16. *Be it further enacted*, That whenever the railroad shall be so crossed or approached by any other railroad incorporated by this State, the said Raleigh and Gaston Railroad Company may erect a depot at or near the point of intersection, where they may receive and deliver passengers and freight and take therefor the same rates of compensation, and be subject to the same regulations as at other depots, and should they fail or refuse to erect such depots, the State or Company owing such intersecting road may erect one, and the Company hereby incorporated shall receive and deliver passengers and freight at such depot, under the same regulations as aforesaid, unless the same shall be rendered impracticable by the situation of the railroad at that place.

Depots at intersection.

SEC. 17. *Be it further enacted*, That the profits of the said Company shall be divided annually or semi-annually, at the pleasure of the said Company, one-half thereof to the State of North Carolina, to be paid to the Public Treasurer of the State, and the other half among the individual stockholders.

Dividends.

SEC. 18. *Be it further enacted*, That it shall be lawful for the said President and Directors to sell the iron on the Raleigh and Gaston Railroad, and apply the proceeds thereof to the reconstruction of said road.

Iron may be sold.

SEC. 19. *Be it further enacted*, That if by the first day of October next a Company shall not be organized according to the terms of the foregoing act, it shall be the duty of the Governor, and he is hereby required so to do, to cause all operations on the said Raleigh and Gaston Rail-

Circumstances under which Governor may sell the road.

road to cease, and to discharge all the persons employed, except so many as in the opinion of the Governor may be necessary to take care of the public property, and to advertise said road and the appurtenances for sale in two papers in the town of Raleigh, one in Petersburg, Richmond, Philadelphia, New York and Boston. The said sales to be upon the following terms and conditions, viz: any company of individuals who will contract with good and sufficient security to put said road in good order with a T iron rail or iron of other form equally good, weighing not less than fifty pounds to the lineal yard, and to properly stock and equip the same with the necessary engines and cars to do the transportation thereon, shall be incorporated as a body corporate, with all the rights and privileges thereunto belonging, under the style and designation of the Gaston and Raleigh Railroad Company; and the Governor is herein authorized and required to sell said Company hereby created the Raleigh and Gaston Railroad, with all the appurtenances for the sum of five hundred thousand dollars, with interest from the day of sale, payable in ten annual instalments of fifty thousand dollar each, together with the whole accruing interest, the first instalment of fifty thousand dollars with all the interest to be paid at the expiration of the first year from the day of sale, and the remainder at the end of each succeeding year, until the whole debt and interest are paid. The Governor is herein directed to take a mortgage on said road and appurtenances for the security of said debt of five hundred thousand dollars, and in making his advertisement inviting proposals from purchasers, to give such description of the road as may give strangers desiring the investment an accurate idea of the character of the work and the capacities of the country through which it runs.

SEC. 20. *Be it enacted*, That this act shall be and continue in force for seventy-five years from and after its ratification.  
(*Ratified 29th January, 1851.*)

The following act was ratified the 25th of December, 1852.

AN ACT TO AMEND THE CHARTER OF THE RALEIGH AND GASTON  
RAILROAD COMPANY.

WHEREAS, By an act passed at the session of the General Assembly for the year 1850-'51 entitled "An act to incorporate the Raleigh and Gaston Railroad Company," certain commissioners were appointed to receive subscriptions of stock to the said Raleigh and Gaston Railroad Company, to the amount of four hundred thousand dollars, in shares of one hundred dollars each ; and whereas the said commissioners received such subscriptions, and duly returned the same, whereupon such proceedings were had pursuant to the provisions of said act, as to form the said subscribers into a body politic and corporate, under the name and style of "The Raleigh and Gaston Railroad Company," and whereas there are in the said act sundry omissions and imperfections, for remedy thereof.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the original subscribers to the stock of the corporation created by the said act, their executors, administrators and assigns are hereby declared to be a body politic and corporate under the name and style of "The Raleigh and Gaston Railroad company," separate and distinct from, and wholly unconnected with the company formerly existing by the same name, and shall have, and are hereby declared to have all the rights, privileges and authorities of a body politic and corporate, and by that name shall be capable in law of purchasing, holding, selling and conveying estates, real, personal and mixed, so far as shall be necessary for the purpose hereinafter mentioned and no farther ; and shall have perpetual succession, and by said corporate name

Corporate title.



may sue and be sued, may have and use a common seal, and may from time to time, make all such by-laws, rules and regulations as may be necessary for the well ordering and conducting of the affairs of the said corporation, not inconsistent with the constitution and laws of this State nor with the following fundamental terms and conditions to wit:

Capital stock.

SEC. 2. *Be it further enacted*, That the capital stock of said company shall consist of eight hundred thousand dollars, (except as hereinafter provided,) to be held as follows, to wit: one-half thereof, or four hundred thousand dollars by the State of North Carolina, in consideration of the transfer and assignment by the said State, as hereinafter provided, to the said corporation, of that railroad heretofore known as the Raleigh and Gaston Railroad, and now the property of the said State, together with all its machine shops, implements, warehouses, depots, water stations, engines and every other description of property, real personal, or mixed, appertaining to the same; and the other half of the said capital shall be held and owned in shares of one hundred dollars each, by those individuals who subscribed for the same, according to the returns of the said original commissioners, their executors, administrators or assigns; and whenever it shall appear by the certificate of the president and treasurer of the said corporation that the said sum of four hundred thousand dollars hath been actually paid in by the said subscribers and expended by the said company in rebuilding the Raleigh and Gaston Railroad with an iron rail weighing not less than fifty pounds to the lineal yard and in the purchase of the necessary cars, engines and other suitable materials for properly stocking and equipping the road, so as to do the transportation thereon, then it shall be the duty of the Governor of the State for the time being, and he is hereby authorized and required, under the great seal of the State, to transfer and convey to the said corporation

the said Raleigh and Gaston Railroad, with all its fixtures and equipments hereinbefore mentioned.

SEC. 3. *Be it further enacted*, That the State of North Carolina shall be entitled to three directors in the said company, to be annually appointed by the board of internal improvements, and at the annual meetings of said company the individual stockholders shall have power and authority to elect four directors, citizens of the State, who, with the directors on the part of the State, shall have power to elect a president out of their own body, to manage all the affairs of the said company, and the said directors shall continue in office until their successors shall have been elected. The president, with any three or more of the directors, or in the absence of the president, any four of the directors, who shall appoint one of their own body president *pro tem.*, shall constitute a board for the transaction of business. In case of vacancy in the office of president or any director, from death, resignation, or otherwise, such vacancy shall be supplied by appointment of the board until the next annual meeting: *Provided*, That whenever the State shall transfer its stock, in whole or in part, the State shall have only one director for every thousand [shares] which it may retain in the stock of said company.

SEC. 4. *Be it further enacted*, That an annual meeting of the subscribers to the stock of the said company, shall be held, at such time and place in each year as the stockholders, at their general or at any subsequent meeting may appoint, to constitute which, or any general meeting called by the president and directors according to the provisions of this act, a number of persons owning a majority of the shares of stock held by individuals in said corporation, shall be present either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on the day appointed, those who do attend shall

have power to adjourn from time to time until a meeting shall be formed.

Votes.

SEC. 5. *Be it further enacted*, That in all general meetings of the said company, each stockholder shall be entitled to give one vote for each share not exceeding ten shares, and one vote for every three shares above ten shares; and it shall be lawful for the board of internal improvements to appoint some suitable person to represent the interest of the State in all such meetings, who shall have a right to vote on all questions coming before them, except in the election of the directors, to be appointed by the individual stockholders.

Contract.

SEC. 6. *Be it further enacted*, That the said President and Directors shall have full power and authority to make contracts, with any person or persons on behalf of the said company for reconstructing said road and performing all other works, which from time to time may be necessary for the completion and repairs of the said road; to require from the individual stockholders from time to time such advances of money on their respective shares, as the wants of the company may demand until the whole of their subscriptions shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's previous notice thereof, in one or more newspapers; to appoint a treasurer, clerk and other officers, as they may require and generally to transact all the necessary business of the company during the intervals between the general meetings of the stockholders: *Provided*, That no loan, which may be equivalent to an increase of the capital stock of said company, and for which the assignable bonds or other securities of the said company are to be given, shall be made by the said President and Directors, unless such loan be first authorized, at a general meeting of the stockholders, and in the event of such loan being made no dividend shall be paid upon any stock holden in said company, until the inter-

est upon such debts shall have been paid or reserved out of the profits, and a sinking fund equivalent to at least *six per centum* per annum, on such debt shall have been likewise reserved, to be invested by the President and Directors, in some good and valid security : *Provided further*, That all loans which may have been heretofore or may be hereafter authorized by the said stockholders in general meeting, shall be valid and obligatory upon the said corporation.

SEC. 7. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the President and Directors within one month after the same shall have [been] advertised in one or more convenient newspapers, it shall and may be lawful for the said president and Directors to sell at public auction and to convey to the purchaser the share or shares of such stockholders so failing giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and charges of sale out of the proceeds thereof, to pay the surplus, if any to the owners, or his legal representative ; and if the said sale shall not produce the sum required to be advanced, with the incident charges attending the sale, then the said President and Directors may recover the balance from the original subscriber, or his assignee, or the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident, and any purchaser of the stock of the company under such sale shall be subject to the same rules and regulations as the original proprietor. It shall, nevertheless, be lawful for the said President and Directors, if they deem it expedient, instead of selling the stock of delinquent subscribers, as contemplated by this section, to recover such sums as may be due the said company from delinquent subscribers by suit in any court of record having jurisdiction thereof, or by warrant before any

Delinquent stockholders.

justice of the peace of the county in which such delinquent stockholder is a resident.

Rights and powers.

SEC. 8. *Be it further enacted*, That the said railroad and all engines, cars and machinery, and all the works of said company, together with all profits which shall accrue from the same, and all the property thereof of every description shall be vested in the said company, one half thereof to the use and benefit of the State, and the other half to the use and benefit of the individual stockholders, and the same shall be deemed and held to be personal estate, and shall be exempt from any public charge or tax whatsoever for the term of fifteen years, and thereafter the Legislature may impose a tax not exceeding twenty-five cents per annum on each share of the capital stock held by individuals whenever the annual profits shall exceed eight per cent.

Conveyance of troops, &c.

SEC. 9. *Be it further enacted*, That in case of domestic invasion or insurrection the said Company shall transport the troops and munitions of war of the State of North Carolina free of charge.

Freight &c.

SEC. 10. *Be it further enacted*, That the said Company shall give no undue preference to the property of one person over that of another, but as far as practicable shall transport such in the order of time in which it shall be delivered or offered for transportation, the toll thereon being first paid or tendered; and it shall be lawful for them to charge for the transportation of persons, goods, produce and merchandise, and for the mail any sum not exceeding the following rates: On persons, not exceeding six cents per mile for each person, unless the distance which any person may be transported should be less than ten miles, in which case an extra charge of fifty cents may be made for taking up and putting down such persons: for the transportation of produce, goods, wares, merchandise and other articles not exceeding an average of eight cents per ton,



and for the transportation of the mail, such sum as may be agreed upon between the Company and the Post Office Department of the United States.

SEC. 11. *Be it further enacted*, That the President and Directors shall render distinct accounts of their proceedings and disbursements of money to each annual meeting of the stockholders.

Account of proceedings.

SEC. 12. *Be it further enacted*, That the President and Directors shall cause to be printed certificates of the shares of the stock in the said company, and, whenever the terms hereinbefore mentioned shall have been complied with, shall deliver one such certificate signed by the president and countersigned by the treasurer, to each person for the number of shares subscribed by him, her or them, or to the assignee of such subscribers, which certificate shall be transferable, either in person or by attorney, on the books of the said company and on each such transfer the assignee shall henceforth become a member of the said company and shall be entitled to all the privileges and subject to the rules and regulations of the same.

Certificate of stock.

SEC. 13. *Be it further enacted*, That whenever the General Assembly may be of opinion that the characters [charters] hereby granted shall have been violated, it may be lawful, by joint resolution of the two houses to direct the Attorney General, with such assistant council as the Governor or the Legislature may think proper to engage, to issue a writ of *scire facias* returnable before the Judges of the Supreme Court, calling upon the said corporation to show cause why their charters shall not be forfeited, subject to the same proceeding as are now prescribed by law in case of other corporations. Their books shall be at all times open to the inspection of a committee of the General Assembly, appointed for that purpose and the President of said company shall bien-

Violation of charter.

nially make a report to the Legislature on or before the third week of their session, so long as the State shall remain a stockholder, of their receipts and expenditures and of such other of their expenditures as he shall deem proper.

Privileges of  
other roads,

SEC. 14. *Be it further enacted*, That any railroad which may hereafter be constructed by the State, or by any company incorporated by the Legislature, shall be at liberty to cross the road hereby allowed to be reconstructed, upon a level or otherwise as may be advantageous: *Provided*, The free passage of the Raleigh and Gaston Railroad be not thereby obstructed.

Depots.

SEC. 15. *Be it further enacted*, That whenever the said railroad shall be so crossed or approached by any other railroad incorporated by this State, the said Raleigh and Gaston Railroad Company may erect a depot at or near the point of intersection, where they may receive and deliver passengers and freights and take therefor the same rates of transportation and be subject to the same rules and regulations as at other depots, and should they fail or refuse to erect such depots, the State or company owning such intersecting road may erect one, and the company hereby incorporated shall receive and deliver passengers and freights at such depots, under the same regulations as aforesaid, unless the same shall be rendered impracticable by the situation of the railroad at that place.

Profits.

SEC. 16. *Be it further enacted*, That the profits of the said company shall be divided annually or semi-annually, at the pleasure of said company, one-half thereof to the State of North Carolina, to be paid to the Public Treasurer of the State, and the other half among the individual stockholders, according to their respective shares.

Iron.

SEC. 17. *Be it further enacted*, That it shall be lawful for

the said president and directors to sell the iron on the Raleigh and Gaston Railroad and apply the proceeds thereof to the reconstruction of the said road, except so much of the said iron as was purchased of Joseph Anderson, of Richmond, Virginia.

SEC. 18. *Be it further enacted*, That to enable the said Raleigh and Gaston Railroad Company to effect a junction and form an actual connection with the North Carolina Railroad whenever the superstructure shall have been laid on that part of the road of the North Carolina Railroad Company lying between Raleigh and Goldsboro, as provided in the fifty-second section of the act incorporating the North Carolina Railroad Company, the President and Directors are hereby invested with full powers and authority to make all necessary contracts for the construction of said road and to resort to the same means for purchasing or condemning such lands as may be required therefor as are provided in the act incorporating the North Carolina Railroad Company.

Junction with N.  
C. R. R.

SEC. 19. *And whereas*, it is provided by the forty-ninth section of the act incorporating the North Carolina Railroad Company, that whenever "the Roanoke Railroad Company or the Seaboard and Roanoke Railroad Company, with or without the aid of individuals, shall subscribe to the Raleigh and Gaston Railroad Company one-half of the sum necessary to construct a railroad from some convenient point on the Raleigh and Gaston Railroad, near the Littleton depot, or any point between that depot, Roanoke river, and the town of Weldon, or any point in the neighborhood thereof, so as to connect with the Wilmington and Raleigh Railroad, and the Seaboard and Roanoke Railroad, and shall expend the said sum in forming the said connection, then the said Raleigh and Gaston Railroad shall be extended to the said town of Weldon, or neighborhood thereof; and the Public Treasurer is hereby authorized and directed to subscribe for an

Connection with  
other roads.

equal sum for and in behalf of the State, and pay for such subscriptions out of any money in the Treasury not otherwise appropriated ; and for the want of such money in the Treasury, the Public Treasurer is hereby authorized to borrow the sum at a rate of interest not exceeding six per cent. per annum, and to issue bonds payable at any time within ten years, for not less than five hundred dollars each ;” *and whereas*, the said Seaboard and Roanoke Railroad Company hath already subscribed to the said Raleigh and Gaston Railroad Company, the sum of seventy-five thousand dollars for the purpose of constructing said road, which subscription hath been accepted by the stockholders of the said Raleigh and Gaston Railroad Company ; *and whereas*, the said road hath been already located and commenced, and a large portion of said subscription hath already been paid by the said Seaboard and Roanoke Railroad Company towards the construction of said road ; *and whereas*, such connection is deemed of great importance to the said Raleigh and Gaston Railroad and to the people of this State: *Be it therefore enacted*, That the said above recited section is hereby re-affirmed and re-enacted and declared to be a part of the charter of said Raleigh and Gaston Railroad Company, with the following provisions and amendments: “Now, that for the purpose of rendering the same effectual, and guarding the interest of the [of the] State, and of the said Raleigh and Gaston Railroad Company, William Collins, Francis Mallory and Samuel S. Roysters, with the agent or representative of the State, appointed by the Board of Internal Improvements, are hereby appointed commissioners to superintend the construction of said connection, and the disbursement of the funds intended to be applied to the same, with power to employ a Treasurer for the safe keeping and disbursing the funds, and to require from said Treasurer such bonds as they may deem proper for the faithful discharge of his official duty.

shall have, and are hereby declared to have all the powers and rights necessary to effect the construction of the said connection, and may in their names commence and prosecute to judgment all such proceedings as may be requisite and proper, for the purpose of condemning any lands which may be required for the construction of said road, in the manner and on the same process and conditions as are prescribed in the act incorporating the said North Carolina Railroad Company; and whereas it may be necessary for the Raleigh and Gaston Railroad Company to form a connection from the town of Weldon with the navigable waters of the Roanoke river below said town, so as to connect with the steamboats and vessels navigating the Roanoke river and Albemarle Sound :

*Therefore be it enacted*, That the President and Directors of the said Raleigh and Gaston Railroad Company be and they are hereby authorized and empowered, whenever they may deem it expedient, to extend their railroad to the navigable water of the Roanoke river, and they are hereby vested with full power and authority to make all necessary contracts for the construction of said railroad, and to resort to the same means for purchasing or condemning such lands as may be required therefore [therefor] as are provided in the act incorporating the North Carolina Railroad.

SEC. 21. *Be it further enacted*, That whenever the said road shall have been completed, it shall be the duty of the said commissioners to make out a duplicate return of their proceeding, stating the particulars of the cost of the construction of said road, one of which shall be made to the Governor of the State, the other to the President of the Raleigh and Gaston Railroad Company, and upon the same being accepted, the cost of said construction shall be added to and constitute a part of the capital stock of the said Raleigh and Gaston Railroad Company at the rate of one share for each hundred dollars of such cost and vest one-half in the State of North Carolina and

Duplicate returns.



one-half in such corporation or individuals as may have subscribed to the said stock, according to the respective amounts of such subscription, their executors, administrators or assigns, and shall be for such amount an increase of the capital stock of said Raleigh and Gaston Railroad Company over and above the sum of eight hundred thousand dollars hereinbefore declared to be the capital of the said company, and thereupon the said Raleigh and Gaston Railroad shall be extended to the said town of Weldon or such point in the vicinity thereof as such connection may be formed and all the lands purchased or condemned for the construction of said road together with all materials used in the construction thereof, depots, warehouses and all other property pertaining to the same and all privileges, rights and powers which may be necessary for doing the transportation of freights and passengers on said road, shall be, and the same are hereby declared to be vested in the said Raleigh and Gaston Railroad Company in the same manner and to the same intent, as if such connection had constituted a portion of the original Raleigh and Gaston Railroad.

**Vacancies.**

SEC. 22. *Be it further enacted*, That in the event of vacancy in the said board of commissioners, by death, resignation or otherwise, such vacancy shall be supplied by the President and Directors of the Raleigh and Gaston Railroad Company.

**Transportation.**

SEC. 23. *Be it further enacted*, That it shall and may be lawful for the President and Directors of the said Raleigh and Gaston Railroad Company to contract with the President and Directors of the Roanoke Valley Railroad or with the President and Directors or managers of any other railroad connecting with the said Raleigh and Gaston Railroad, for doing the transportation of freight and passengers on such road or roads upon such terms as may be agreed on between them.

SEC. 24. *Be it further enacted*, That this act shall take effect immediately from and after its acceptance by three fourths of the stockholders of said Raleigh and Gaston Railroad Company in general meeting assembled—acceptance to be signified to the Governor of the State by the president of said company, under the great seal of the same and shall continue in force for the term of ninety years from and after such acceptance. Takes effect.

[*Read three times and ratified in General Assembly, this 25th of December 1852.*]

The Company was duly organized under the Act of 25th January, 1851, at a Stockholders' meeting held in Warrenton, N. C., 12th September, 1851. The first Annual meeting of Stockholders was held in the town of Henderson, N. C., 14th and 15th January, 1852. The second Annual meeting was held at Raleigh 11th and 12th November, 1852.

The following Resolution was ratified 27th December, 1852.

RESOLUTION AUTHORIZING HIS EXCELLENCY THE GOVERNOR TO  
APPOINT AN AGENT TO MAKE A SETTLEMENT WITH THE PRESENT  
RALEIGH AND GASTON RAILROAD COMPANY AND WILLIAM  
R. ANDERSON.

*Resolved by the General Assembly of the State of North Carolina*, That his Excellency, the Governor be, and he is hereby authorized to appoint an agent to make settlement with the present Raleigh and Gaston Railroad Company respecting the use of the iron purchased of Joseph R. Anderson. Agent.

[*Read three times and ratified in General Assembly this 27th day of December, A. D. 1852.*]

The following Resolution was ratified 27th December, 1852:

RESOLUTION IN RELATION TO THE SELLING OF RAILROAD  
IRON, &c ,

Authority to sell. *Resolved by the General Ass mbly of the State of North Carolina*, That the late commissioners of the Raleigh and Gaston Railroad be instructed to sell the railroad iron purchased of Joseph R. Anderson, of Richmond, and to deposit the proceeds thereof, in the Public Treasury and that they be furthermore directed to collect the debts reported to be due on account of the said railroad, and to deposit the same in the Public Treasury.

*[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]*

The third Annual meeting was held at Raleigh 15th November, 1853. The fourth Annual meeting was held in Raleigh 2d November, 1854.

The following Act was ratified 20th January, 1855 :

AN ACT TO AUTHORIZE THE RALEIGH AND GASTON RAILROAD  
COMPANY TO TAKE STOCK IN THE ROANOKE VALLEY RAIL-  
ROAD COMPANY.

SECTION. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the Raleigh and Gaston Railroad Company be, and is hereby authorized to receive payment for the sills sold by said Company to D. Shelton to an amount not to exceed twelve thousand dollars, in shares of the stock of the Roanoke Valley Railroad Company, and to hold, sell or otherwise dispose of said stock, as the President and Directors of said Raleigh and Gaston Railroad Company may, from time to time direct.

*[Ratified the 20th day of January, A. D. 1855.]*

The following Act was ratified 23d February, 1861:

AN ACT ALLOWING THE RALEIGH AND GASTON RAILROAD COMPANY TO INCREASE THE CAPITAL STOCK.

WHEREAS, The whole capital stock of the Raleigh and Gaston Railroad Company is fixed by the charter at the sum of nine hundred and seventy-five thousand dollars and each share thereof at one hundred dollars and by reason of the great expenditure in permanent fixtures necessarily made to complete the road after exhausting the capital stock, the actual capital invested is now or will soon be upwards of one million five hundred thousand dollars, so that each share in said company now represents about the sum of one hundred and fifty dollars, *and whereas*, at a late general meeting of the stockholders, held on the 4th day of October last, it was deemed expedient and so resolved, that the company should purchase a portion of the slaves to be employed in its service, whereby each share will represent a still larger additional amount of capital stock, and it is but just that the shares should represent as nearly as practicable the amount of capital invested. Preamble.

SEC. 1. *Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful for the Raleigh and Gaston Railroad Company to increase the number of shares of its capital stock so as to make the whole number fifteen thousand or less, and that the additional number hereby allowed may be wholly or partly divided among the stockholders according to their several interests, or sold for their use and benefit or used to purchase slaves for the use of the company as by the stockholders shall be deemed best. *Provided nevertheless,* That it shall be necessary for the State as a stockholder to concur in the number of increased shares as also in the disposition thereof. Amount of increase of stock.

Fractions of  
shares.

SEC. 2. *Be it further enacted*, That if the additional shares, or any number of them shall be divided among the stockholders, all the fractional parts of shares which may accrue on such division shall be added together, so as to constitute whole shares, and they shall be disposed of for the benefit of those having fractional interest as may be deemed advisable by the company.

Act a part of  
charter.

SEC. 3. *Be it further enacted*, That this act, when accepted by the Company, shall forthwith be deemed a part of the charter, and such acceptance shall be certified to the Secretary of State by the President and Directors of the Company, under the seal of the corporation.

Act to be accepted  
in general meet-  
ing.

SEC. 4. *Be it further enacted*, That a general meeting of the stockholders may be called for the purpose of accepting the amendment, and if accepted, as provided in section third at any time within two years, it shall be sufficient.

How capital in-  
creased.

SEC. 5. *Be it further enacted*, That it shall not be necessary for the Company to increase the number of shares at once, but they may do so from time to time as shall be resolved on, the State concurring as aforesaid: *Provided however*, The whole capital of the Company shall not exceed fifteen hundred thousand dollars.

SEC. 6. *Be it further enacted*, That every part of the present charter of said Company which shall be in conflict with this amendment, shall be null and void after its acceptance as aforesaid.

[*Ratified the 23rd day of February, 1861.*]

The above Act was accepted at the Annual meeting of Stockholders held 4th July, 1861.



The following Act was ratified the 16th December, 1865:

AN ACT TO AUTHORIZE THE RALEIGH AND GASTON RAILROAD COMPANY TO ESTABLISH A FERRY AT GASTON FOR THE TRANSPORTATION OF PASSENGERS AND FREIGHT ACROSS ROANOKE RIVER.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Raleigh and Gaston Railroad Company shall have the right, and they are hereby authorized and empowered, to establish a ferry across Roanoke river, at Gaston, for the purpose of transporting across said river, all passengers and freight taken to or intended for railroad transportation going north or coming south, in the same manner and under like rules and regulations as said Railroad Company had the right of transporting passengers and freight across said river on the bridge before its destruction.

Empowers R. & G. Railroad to establish a ferry across Roanoke river at Gaston.

SEC. 2. *Be it further enacted,* That said ferry shall be established at the same point on the river as the bridge was before its destruction.

Where ferry to be located.

SEC. 3. *And be it further enacted,* That this act shall be in force immediately after its ratification.

[Ratified the 16th day of December, A. D. 1865.]

The above Act was accepted at a Stockholders meeting held 4th August, 1867.

The following Act was ratified 19th January, 1866.

AN ACT TO EXEMPT THE RALEIGH AND GASTON RAILROAD COMPANY FROM RE-BUILDING THE BRIDGE ACROSS THE ROANOKE AT GASTON.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same,* That the Raleigh and Gaston Railroad

Exempts railroad from rebuilding bridge.

Company be and it is hereby exempted from keeping up across the Roanoke, near Gaston, the bridge which heretofore formed a part of the railroad: *Provided*, That a majority of the entire stock in amount shall so desire.

Stockholders may reject or accept privilege granted by act.

Proviso.

SEC. 2. *Be it further enacted*, That at the next general meeting of the stockholders of said Company, when a sufficient amount of stock shall be represented, the Company may declare whether it accepts or rejects the privilege of being thus exempted from rebuilding said bridge; and if it shall accept the said exemption, the acceptance thereof shall be entered on the proceedings of the Company and notified by the President to the Secretary of State, and thenceforth the exemption from keeping up said bridge shall become a part of the charter of the Company, and not otherwise: *Provided, nevertheless*, That the General Assembly may, at any time, after the term of five years from the ratification of this act, repeal the same, and thereafter the Company shall rebuild said bridge if the General Assembly shall so direct.

[*Ratified 19th of January, 1866.*]

The above Act was accepted at a Stockholders meeting held 5th of July, 1866:

The following Ordinance of the Convention was ratified the 16th of June, 1866:

AN ORDINANCE FOR EXCHANGING THE STOCKS OF THE STATE FOR BONDS ISSUED BEFORE THE YEAR ONE THOUSAND EIGHT HUNDRED AND SIXTY-ONE.

Preamble.

WHEREAS, The destruction and depreciation of taxable property in North Carolina, arising out of the late unhappy war, has greatly increased the proportion borne by the public debt to the means which the State possesses for its payment; and, whereas, the people of North Carolina are solicitous fully to discharge their just obligations

at the earliest possible moment in any manner that shall be acceptable to their creditors; whereas, further, the stocks, liens and other claims upon the Railroad Companies, and other corporations, are proceeds of the bonds of the State, issued in great part before the twentieth day of May, in the year one thousand eight hundred and sixty-one, and now outstanding; and, whereas, due regard being had as well to economy and other grave public interests as to the rights of public creditors, it were good policy to exchange for the principal of such bonds, the stocks and other property above mentioned, if such exchange can be made at par: Therefore,

SECTION 1. *Be it ordained by the delegates of the people of North Carolina, in Convention assembled,* That the Public Treasurer shall advertise, in such newspapers as he may select, and invite proposals for an exchange of the principal of any bonds issued by the State prior to the twentieth day of May, one thousand eight hundred and sixty-one, for certificates of stock and other interests held by the State in various corporations; such bids shall be opened by the Treasurer upon some day (of which he shall give due notice to them) in presence of the Governor of the State and the Comptroller of public accounts, and it shall be his duty to accept those terms which may be most advantageous for the State: *Provided*, That in no event shall any of the said stocks or other property be exchanged for less than their par value; and any premiums which may be obtained upon such exchange shall be applied either to the extinguishment of coupons or other interest (if any) due upon the particular bonds accepted in exchange, or to a further discharge of the principal due upon such other bonds; or, in case such premiums be fractional in regard to such bonds or interest, it may, as an alternative, at the discretion of the Treasurer, be paid in currency into the Treasury and charged to the public fund.

Duty of Public  
Treasurer.

Proviso.

Public Treasurer  
shall accept bids,  
&c.

SEC. 2. *Be it further ordained*, That as soon as may be practicable after the acceptance of any bid, the Public Treasurer shall receive the bonds offered in exchange, and in the presence of the Governor and Comptroller shall cancel the same; it shall also be his duty to transfer the stocks and execute such conveyances of the other interests hereinbefore mentioned as shall be deemed necessary; such conveyances to be in a form approved by the Governor and the Attorney General: *Provided, however*, That the interest to be acquired by any such purchaser or assignee of any stock now held by the State, shall not be other than that of the holders of a like amount, in the general stock of the several and respective corporations in which the State may be a corporator.

Proviso.

Duty of Comptroller.

SEC. 3. *Be it further ordained*, That it shall be the duty of the Comptroller to make a minute of what may be done by the Public Treasurer in the premises, and to make therefrom such entries in the books of his office as may secure a just accountability on the part of the Treasurer because of the transactions hereinbefore mentioned.

Special reports by  
Treasurer.

SEC. 3. *Be it further ordained*, That the Public Treasurer shall make special reports upon the subject of this ordinance to the General Assembly at every session, and this ordinance shall be subject to repeal or modification by the General Assembly.

[*Ratified the 15th day of June, A. D. 1866.*]

The following Act was ratified 4th of March, 1867:

AN ACT TO AMEND THE CHARTER OF THE RALEIGH AND GASTON  
RAILROAD COMPANY.

Preamble.

WHEREAS, under an ordinance of the convention ratified on the —— day of —— A. D., 1866, the State of North Carolina has sold and transferred all the stock owned by the said State in the Raleigh and Gaston Railroad Com-

pany and the said State has duly ceased to be a stockholder in the said company and is no longer entitled to appoint three directors of said company, nor to any other right as a stockholder in said company, all the right and interest of the said State having passed to and become vested in the purchasers of the said stock; *and whereas*, by the present charter of the said company, the individual stockholders are entitled to elect only four of the seven Directors of said company, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same*, That the stockholders of the said company, at the regular annual meeting thereof, shall have power and authority to elect seven directors of the said company, each of whom shall be a stockholder in said company and shall be a citizen of the State of North Carolina who shall constitute the Board of Directors of said company, with power to elect one of their number President and to manage all the affairs of said company and shall continue in office until their successors are elected. The President, with any three members of the Board of Directors, or in the absence of the President, any four members of the Board, shall constitute a quorum for the transaction of business, and shall elect one of their number President *pro tem*. In case of vacancy in the office of President or Director, from death, resignation or otherwise, such vacancy shall be filled by the appointment of the board until the next annual meeting of the stockholders. In the election of directors, and whenever a vote by stock shall be taken, each stockholder shall cast one vote for each share of stock owned by him, up to ten shares, and (one) vote for every three shares of stock owned by him over ten.

Individual stockholders hereafter to elect the seven Directors.

Quorum.

Each share or vote.

SEC. 2. *Be it further enacted*, That the third and fifth sections of the charter of said company, ratified on the 25th day of December, A. D., 1862, and all other sections and parts of sections of the said charter, giving to the State

Repeal of sections 3 and 5 of charter.



any right or interest as a stockholder in said company, be and they are hereby repealed.

SEC. 3. *Be it further enacted*, That this act shall go into effect from and after its ratification and upon the acceptance thereof by the stockholders, representing a majority of the stock at the first meeting thereof and notice of such acceptance to the Governor of the State, it shall become and constitute a part of the charter of said company.

[*Ratified the 4th day of March 1867.*]

This act was accepted at a Stockholders' meeting held 4th July, 1867.

The following Act was ratified 4th of April, 1871:

AN ACT FOR THE PROTECTION OF IMMIGRATION AND THE SETTLEMENT OF THE UNIMPROVED LANDS OF THE STATE.

Railroad Immi-  
gration Associa-  
tion.

SECTION 1. *The General Assembly of North Carolina do enact as follows* : For the purpose of promoting immigration into this State and the settlement of the unimproved lands of the State, a corporation is hereby created under the name of "The Railroad Immigration Association of North Carolina," to have perpetual succession and a common seal, which they may alter and change at their pleasure, and shall be capable of suing and being sued, of pleading and being impleaded, with capacity to hold real and personal estate.

Corporate rights.

Corporators.

SEC. 2. Said corporation shall consist of the Raleigh & Gaston Railroad Company, Wilmington and Weldon Railroad Company, the Wilmington, Columbia & Augusta Railroad Company, the North Carolina Railroad Company, the Seaboard & Roanoke Railroad Company, the Petersburg Railroad Company, the Atlantic & North Carolina Railroad Company, the Wilmington, Charlotte & Rutherford Railroad Company, the Western Railroad

Company, the Western North Carolina Railroad Company, the Piedmont Railroad Company, the Charlotte & Atlanta Railroad Company, the Atlantic, Tennessee and Ohio Railroad Company, the Charlotte, Columbia & Augusta Railroad Company, the Chatham Railroad Company, the Williamston & Tarboro Railroad Company, the Edenton & Norfolk Railroad Company, the North Western North Carolina Railroad Company, and all other Railroad Companies now or hereafter to be incorporated, the whole or any portion of whose lines are in this State, or any one or more of said Railroad corporations, who may desire to become members of the corporation herein authorized.

SEC. 3. All railroad corporations agreeing to become stockholders of this association, shall subscribe and pay annually at such time as may be determined by the board of directors herein authorized, to the treasurer of the association ten dollars per mile (or a larger amount if they shall deem it necessary to carry into effect the objects of this charter) for each mile of road in actual running order located in this State.

Subscriptions by  
railroad corporations.

SEC. 4. The affairs of this association shall be managed by the general board of directors to be formed as follows, viz: The directors of each subscribing corporation shall choose one director; these directors shall choose a president of the association. The presidents of the subscribing corporations shall be *ex officio* vice presidents of this association, and the general board of directors shall consist of said designated directors, of the vice presidents and the president of the association, which president with the attorney shall reside at Raleigh.

Board of Directors.

President and  
Vice Presidents.

SEC. 5. The general board of directors may pass such by laws for the government of the association as they may see fit, not inconsistent with the constitution and laws of the United States or of this State, and may ap-

By-laws.

Secretary and  
other officers.

point and remove an attorney, secretary, treasurer and other officers, and fix their compensation and prescribe their duties.

Powers and priv-  
ileges.

SEC. 6. The Railroad Immigration Association shall have power to buy and sell, lease, mortgage or otherwise convey lands, to make advances of money or other things to settlers and others on such terms and on such securities, real or personal, as may be agreed on, to negotiate for the purchase or sale of lands, to aid settlers and others in the purchase of lands or building of houses, and improving lands, and, in general, to carry on the business of a land and immigration company. The association may likewise own and manage steam and other vessels, and take measures for the transportation of persons and property into the State, and take all proper or customary measures for the comfort and interests of immigrants and settlers. It shall likewise have power to appoint one or more commissioners and agents to visit or reside in Europe and other countries as well as in the United States, for the purpose of soliciting immigration and carrying out the objects of this charter.

Settlement of  
lands along sub-  
scribing roads.

SEC. 7. Each Railroad Company becoming a member of this association, shall, through its president, have control of all settlements of land, and of all other business of the association along its line: *Provided, however,* That no expenditures of the funds of the association shall be made without the authority of the general board thereof, and all net profits made in carrying out the objects of this charter, by any company, shall be paid into the treasury of the association. Full reports of all proceedings, and exhibit of accounts, as well as final settlements, shall be made at such time and in such manner as the general board of directors shall prescribe.

Appointment of  
agents.

SEC. 8. Each railroad becoming a member of this association shall have authority to appoint agents to be paid

by the appointing company, for the purpose of inducing immigration to its line, but such agents shall be subject to the control of the General Board of Directors, and all questions involving the action of such agents shall be referred to such board of directors, whose decision shall bind the parties.

SEC. 9 All railroad companies in this State becoming members of this association shall transport *bona fide* immigrants and settlers, actually making settlements in this State, for not exceeding one cent per mile, for one trip, and their freight and baggage when moving in for settlement at not exceeding twenty cents per hundred pounds for one hundred miles. The provisions of this section shall extend to the carrying of persons and freights over all the lines of the members of this association without regard to the place of settlement of the immigrants or settlers.

Rates of fare to immigrants.

SEC. 10. If any net profits shall accrue to the railroad immigration association, they shall be divided among the subscribing companies in proportion to the net profit of each line, at such time as may be prescribed by the general board of directors.

Profits.

SEC. 11. The stockholders of this association shall prescribe the time and place of their annual meetings. The general board of directors may call a meeting of stockholders at any time they may think proper, and any number of stockholders having paid in one-tenth of the whole amount of stock paid, may call a special meeting on notice of sixty days at least, in one or more newspapers published in Raleigh, specifying the purpose of the meeting. In all meetings, each company shall be entitled to a vote in proportion to the amount paid in by the same, and each board of directors of said company shall appoint a proxy to cast the vote of their company,

Annual meeting.

but no one but the president or a director of such company shall be a proxy.

Quorum.

SEC. 12. A majority of the general board of directors of this association shall be a quorum for the transaction of business. If the president of the association be absent, the members present shall select a presiding officer.

First meeting.

SEC. 12. For the purpose of organizing this association the Board of Directors of the first of the above named Railroad Companies shall, through their president, within sixty days after the ratification of this act, call a meeting of the presidents of all the railroad companies herein authorized to become members of this association, and also of delegates, one to be appointed by each of the boards of said companies, at Raleigh, after giving fifteen days notice of the time and place of meeting, *provided*, that each board may, in their discretion, be represented by their president alone. At the meeting so held the representatives of any one or more companies may accept this charter—and thereupon the association shall be fully organized; and the representatives so accepting, shall provide for a meeting of the general board of directors hereinbefore authorized. But no company shall be bound by the action aforesaid, if the stockholders at the first meeting held thereafter shall disapprove such action.

Any Company  
may withdraw  
from Association.

SEC. 14. Any railroad company may retire from this association after giving one year's notice, having first paid all its dues to the association incurred up to the time of retirement.

When act to be in  
force.

SEC. 15. This act shall be in force from its ratification.  
[*Ratified the 4th day of April, 1871.*]

The following Act was ratified 4th of December, 1871:



AN ACT TO AMEND THE CHARTER OF THE RALEIGH AND GASTON  
RAILROAD COMPANY.

SECTION 1. *The General Assembly of North Carolina do enact*, That section one (1) of an act of the General Assembly, entitled "an act to amend the charter of the Raleigh and Gaston Railroad Company," ratified the fourth day of March, one thousand eight hundred and sixty-seven, be amended so as to read as follows: That the stockholders of the Company at the regular meetings thereof, shall elect a President and six Directors, each of whom shall be a stockholder in said Company, and shall constitute the Board of Directors of said Company, with power to manage all the affairs thereof, and shall continue in office for one year, or until their successors are elected. In the election of President and Directors, and whenever a vote by stock shall be taken, each stockholder shall cast one vote for each share of stock owned by him. The President and any three members of the board, or in the absence of the President, any four members of the board, shall constitute a quorum for the transaction of business, and shall elect one of their number President *pro tem*. In case any vacancy shall occur in the office of President or Directors, by death or resignation, or otherwise, such vacancy shall be filled by the appointment of the board until the next election.

Amendment to  
act of 4th March  
1867.

Stockholders shall  
elect President  
and Directors.

Each share of  
stock entitled to  
one vote.

Three members  
with president or  
four without, con-  
stitute a quorum.

Vacancy how  
filled.

SEC. 2. That all parts of sections and clauses of the original charter of said Company, and amendments thereto coming in conflict with this act, be, and the same are hereby repealed.

Conflicting acts  
repealed.

SEC. 3. That upon the acceptance of this act as a part of the charter of said Company by the stockholders representing a majority of the stock at the first general meeting of the stockholders thereof, it shall become and constitute a part of the charter of said Company.

When accepted  
becomes part of  
charter.

When takes effect. SEC. 4. That this act shall be in force from and after its ratification.

[*Ratified the 4th day of December, 1871.*]

The above Act was accepted at an adjourned meeting of Stockholders held 3rd of October, 1872.

The following act was ratified 13th December, 1871. It is given here because of its bearing on the preferred stock of the Raleigh and Augusta Air-Line Railroad held by the Raleigh and Gaston Railroad :

Change of name. AN ACT CONCERNING THE CHATHAM RAILROAD, AMENDATORY OF CERTAIN ACTS AND AUTHORIZING A CHANGE OF NAME.

Extension of road. SECTION 1. *The General Assembly of North Carolina do enact,* That the Chatham Railroad Company shall hereafter be known by the corporate name of the " Raleigh and Augusta Air Line Railroad Company."

Privilege of branch roads. SEC. 2. That it shall be lawful for the said railroad company to change the line of its road as heretofore prescribed, so as to extend it from its present terminus or such point on the line of the same as it may deem advisable, to such point on the South Carolina line in the direction of Augusta, in the State of Georgia, as the said company may deem most eligible, and as much farther as may be authorized by the States of South Carolina and Georgia, and to locate and construct such branch road or roads, not exceeding in length, from the line of said railroad as may be authorized from time to time by the stockholders, and in building and the use of such branch railroads the said company shall have all the rights, privileges and immunities granted to it by the act to incorporate the Chatham Railroad Company, and other acts amendatory and supplementary to the same and of this act.

SEC. 3. If the capital stock of the said company now authorized shall be deemed insufficient for the purposes of this act it shall and may be lawful for the company in general meeting from time to time to increase the same by the addition of as many shares as they may deem requisite, and the board of directors, with the consent of a majority of the votes of all the stockholders in general meeting may make such portion of the capital stock already authorized, or if any additions to the same as they may deem advisable, a guaranteed or preferred stock, upon which guaranteed or preferred stock, such interest or dividends may be guaranteed as the directors may deem advisable; and the directors may, with the consent of a majority of the votes of all the stockholders in general meeting, secure such guaranteed interest or dividends by liens or mortgages upon all the property and franchise and income of the company, or upon any portion thereof, and the directors may, in their discretion, authorize subscriptions to be received for such additional stock, (either common or guaranteed, or both,) at such prices and in such manner as may be prescribed by them, and may sell the same or any part thereof for the benefit of the Company: *Provided*, That the entire capital stock so created shall not exceed five millions of dollars. And the said board of directors, with the consent of a majority of the votes of all the stockholders, shall have power to borrow money for the purposes of the railroad authorized by this act; and for loans made by them to issue bonds with or without the privilege of conversion into stock in such amounts, and payable at such times and places, and at such rates of interest, as they may determine, and to pledge the property and franchises and income of the company, or any portion thereof, by mortgage or otherwise for the payment of the principal of the same and the interest that may accrue thereon.

Insufficient funds to be increased by additional shares.

Mortgage upon property authorized.

Proviso.

SEC. 4. Authority is hereby given to the Raleigh and Gaston Railroad Company, or any other railroad com-

Companies of different roads can subscribe to or purchase stock.

Mortgage bonds  
to be issued.

pany connecting therewith, to subscribe to or purchase stock of any kind of the said Raleigh and Augusta Air-Line Railroad Company, and in order to enable them to make such subscription or purchase, it shall be lawful for any such company to issue mortgage bonds for such amount and of such form, and of such rate of interest as it may deem advisable; and it shall be lawful for any such company to purchase or endorse the mortgage bonds of the Raleigh and Augusta Air-Line Railroad Company.

Bonds to be dis-  
charged by Public  
Treasurer.

SEC. 5. The said Raleigh and Augusta Air-Line Railroad Company may, at any time hereafter, discharge the bonds of Chatham Railroad Company, deposited with the Public Treasurer, in the same manner and not otherwise as the said Chatham Railroad Company is now authorized by law to do, and the Public Treasurer is hereby directed to return to the said Raleigh and Augusta Air-Line Railroad Company the said bonds of said Chatham Railroad Company on payment in the manner above prescribed, until the whole amount of said bonds of the Chatham Railroad Company, held by the State, shall have been surrendered.

Conflicting acts  
repealed.

SEC. 6. All acts and parts of acts heretofore passed, inconsistent with this act, are hereby repealed.

When act to be in  
force

SEC. 7. This act shall be in force from and after its ratification.

[*Ratified the 13th day of December, A. D. 1871.*]

The following Act was ratified 1st of March, 1873:

# AN ACT TO REGULATE MORTGAGES BY CORPORATIONS, AND SALES UNDER THE SAME

Sales under deeds  
of trust.

SECTION 1. *The General Assembly of North Carolina do enact, That if a sale be made under a deed of trust or*

mortgage, executed by any company on all its works and property, and there be a conveyance pursuant thereto, such sale and conveyance shall pass to the purchaser at the sale not only the works and property of the company as they were at the time of making the deed of trust or mortgage, but any works which the company may, after that time and before the sale, have constructed, and all other property of which it may be possessed at the time of the sale, other than debts due to it. Upon such conveyance to the purchaser, the said company shall, *ipso facto*, be dissolved, and the said purchaser shall forthwith be a corporation, by any name which may be set forth in the said conveyance, or in any writing signed by him and recorded in the same manner in which the conveyance shall be recorded.

SEC. 2. The corporation created by or in consequence of such sale and conveyance shall succeed to all such franchises, rights and privileges, and perform all such duties as would have been had or should have been performed by the first company but for such sale and conveyance, save only that the corporation so created shall not be entitled to the debts due to the first company, and shall not be liable for any debts of, or claims against, the said first company which may not be expressly assumed in the contract of purchase; and that the whole profits of the business done by such corporations shall belong to the said purchaser and his assigns. His interest in the corporation shall be personal estate, and he or his assigns may create so many shares of stock therein as he or they may think proper, not exceeding together the amount of stock in the first company at the time of the sale, and assign the same in a book to be kept for that purpose. The said shares shall thereupon be on the footing of shares in joint stock companies generally, except only that the first meeting of the stockholders shall be held on such day and at such place as shall be fixed by the said purchaser,

Corporation created by sale shall succeed to rights, etc.



of which notice shall be published for two weeks in a newspaper.

Expiration of corporation, etc.

SEC. 3. When such corporation shall expire or be dissolved, or its corporate rights and privileges shall have ceased, all its works and property and debts due to it shall be subject to the payment of debts due by it, and then to distribution among the members according to their respective interests ; and such corporation may sue and be sued as before for the purpose of collecting debts due to it prosecuting rights under previous contracts with it, and enforcing its liabilities and distributing the proceeds of its works, property and debts among those entitled thereto:

Provided.

That all debts and contract of any corporation prior to or at the time of the execution of any mortgage or deed of trust by such corporation, shall have a first lien upon the property, rights and franchises of said corporation, and shall be paid off or secured before such mortgage or deed of trust shall be registered.

Extent of this act.

SEC. 4. The provisions of this act shall not apply to any company in which the State of North Carolina has any interest.

When to be in force.

SEC. 5. This act shall be in force from and after its ratification.

*[Ratified the 1st day of March, 1873.]*

The following two cases decided in the Supreme Court of the United States are given as decisive of the important right of exemption of the Raleigh and Gaston Railroad Company from taxation :

## WILMINGTON RAILROAD v. REID, Sheriff.

[13 Wallace, 261—273.]

1. A Statute exempting all the property of a railroad corporation from taxation, exempts not only the rolling stock and real estate owned by it and required by the Company for the successful prosecution of its business, but its franchise also.
2. A charter to a railroad company containing such an exemption, is a contract; and a law subsequently passed, laying a tax on the Company's franchise, rolling stock, or real property, violates the obligation of the contract, and is void.

ERROR to the Supreme Court of North Carolina; the case being thus:

In 1853, the Legislature of North Carolina chartered the Wilmington and Raleigh Railroad Company. One section of the charter ran thus:

"It shall be lawful for the President and Directors to purchase with the funds of the Company, and place on the said railroad all machines, wagons, vehicles, carriages, and teams of any description whatsoever, which may be deemed necessary for the purposes of transportation; and all the property purchased by the said President and Directors and that which may be given to the Company, and the works constructed under the authority of this act, and all profits accruing on the said works and the said property shall be vested in the respective shareholders of the Company and their successors and assigns forever, in proportion to their respective shares; and the shares shall be deemed personal property; and the property of said Company and the shares therein shall be exempt from any public charge or tax whatsoever."

With this charter in force, the franchise and rolling stock of the Company were assessed, under a subsequent law and pursuant to it for taxation by the State of North Carolina and the county of Halifax, in two parts—one, the apportioned share for the county of Halifax, assessed

in each case upon the entire franchise and rolling stock jointly, and the other a tax assessed upon certain lots of land in Halifax county, appurtenant to and forming a part of the property of the Company, and necessary to its business.

On application for injunction against one Reid, Sheriff, who was going to seize the Company's property for non-payment of the tax—the application for the injunction being made on the ground that the subsequent law impaired the obligation of a contract the Supreme Court of the State adjudged that the law did not do this, and that the tax was valid. The case was accordingly now brought here by the Company to review that judgment.

It may be here added that provisions exempting the property of companies chartered by it, exist in the cases of numerous companies incorporated by the Legislature of North Carolina; beginning with the charter to the Dismal Swamp Canal Company, A. D. 1790. In some cases the provision exempted the Company from all taxes forever; in others but for a limited time. In some all dividends were exempted; in others, dividends when not exceeding a certain rate per cent. Such exemptions are more observable in earlier times than in later ones.

*Mr W. H. Battle*, in support of the ruling below.

*Messrs. Carlisle, McPherson, and B. F. Moore, contra.*

MR. JUSTICE DAVIS delivered the opinion of the Court.

It has been so often decided by this Court that a charter of incorporation granted by a State creates a contract between the State and the corporators, which the State cannot violate, that it would be a work of supererogation to repeat the reasons on which the argument is founded.

It is true that when a corporation claims an exemption from taxation, it must show that the power to tax has been clearly relinquished by the State, and if there be a reasonable doubt about this having been done, that doubt must be solved in favor of the State.

If, however, the contract is plain and unambiguous, and the meaning of the parties to it can be clearly ascertained, it is the duty of the Court to give effect to it the same as if it were a contract between private persons without regard to its supposed injurious effects upon public interests.

It may be conceded that it were better for the interest of the State that the taxing power, which is one of the highest and most important attributes of sovereignty, should on no occasion be surrendered.

In the nature of things the necessities of the government cannot always be foreseen, and in the changes of time, the ability to raise revenue from every species of property may be of vital importance to the State, but the courts of the country are not the proper tribunals to apply the corrective to improvident legislation of this character. If there be no constitutional restraint on the action of the Legislature on this subject, there is no remedy, except through the influence of a wise public sentiment, reaching and controlling the conduct of the law-making power.

There is no difficulty whatever in this case. The General Assembly of North Carolina, told the Wilmington and Weldon Railroad Company, in language which no one can misunderstand, that if they would complete the work of internal improvement for which they were incorporated, their property and the shares of their stockholders should be forever exempt from taxation. This is not denied, but it is contended that the subsequent legislation does not impair the obligation of the contract and this presents the only question in the case. The taxes imposed are upon the franchise and rolling stock of the company and upon lots of land appurtenant to and forming part of the property of the company and necessary to be used in the successful operation of its business.

It certainly requires no argument to show that a railroad corporation cannot perform the functions for which

it was created without owning rolling stock, and a limited quantity of real estate and that these are embraced in the general term property. Property is a word of large import and in its application to this company included all the real and personal estate required by it for the successful prosecution of its business. If it had appeared that the company had acquired either real or personal estate beyond its *legitimate* wants, it is very clear that such acquisitions would not be within the protection of the contract, but no such case has arisen and we are only called upon to decide upon the case made by the record, which shows plainly enough that the company has not undertaken to abuse the favor of the Legislature.

It is insisted, however, that the tax on the franchise is something entirely distinct from the property of the corporation, and that the Legislature therefore, was not inhibited from taxing it. This position is equally unsound with the others taken in this case. Nothing is better settled than that the franchise of a private corporation which in its application to a railroad is the privilege of running it and taking fare and freight, is property and of the most valuable kind, as it cannot be taken for public use even without compensation\*. It is true it is not the same sort of property as the rolling stock, road-bed and depot grounds, but it is equally with them covered by the general term, "the property of the company" and therefore equally within the protection of the charter.

It is needless to argue the point further, it is clear that the legislation in controversy did impair the obligation of the contract, which the General Assembly of North Carolina made with the plaintiff in error, and it follows that the judgment of the Supreme Court must be *reversed* and the cause remanded for further proceedings.

IN CONFORMITY WITH THIS OPINION.

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\*Redfield on Railways, 139-70



## NOTE.

At the same time with the preceding case was adjudged another, from the same court, the two cases being of kindred character and alike in their essential features, the difference between the two consisting chiefly in the extent of the exemption. It was the case of

THE RALEIGH AND GASTON RAILROAD COMPANY *vs.*  
REID, Sheriff.

The principle of the preceding case affirmed in a case where the exemption from taxation was limited to a term of years, and where the dividends did not exceed a certain sum.

In the case just above adjudged and reported, the property of the railroad company could not by its charter be taxed under any circumstances. In the case of the charter of the railroad company now under consideration the exemption was limited to a term of fifteen years. After this limitation expired the Legislature was at liberty to tax the individual shares of the stockholders whenever their annual profits exceed 8 per cent. provided that the tax did not exceed twenty-five cents a share per annum. The pleadings in the case showed that the annual profits on the shares never reached 8 per cent.

*Messrs. Carlisle, McPherson and B. F. Moore, for the plaintiff in error.*

It is laid down in Lord Hobart's reports that affirmatives in statutes that introduce a new rule imply a negative of all else. Father Plowden equally declares that when a statute limits a thing to be done in a particular mode, it includes a negative of any other mode. The tax is in violation of rules thus anciently and authoritatively laid down ; rules conformed to obvious sense and justice.

Mr. W. H. Battle, *contra*, argued that such exemptions were so grossly impolitic that they could not be considered as legitimate exercise of legislative power.

Mr. JUSTICE DAVIS delivered the opinion of the court.

The only way in which the property of this company could be reached for taxation at all was after the limitation of the fifteen years had expired.

The Legislature was then at liberty to tax the individual shares of the stockholders, whenever their annual profits exceed 8 per cent. When a statute limits a thing to be done in a particular mode, it includes a negative of any other mode. It was the manifest object of the legislation which incorporated this company to invite the investment of capital in the enterprise of building this road, and no means better adapted for the purpose, could have been devised, short of total immunity from taxation. As long as the capital was unproductive it contributed nothing to the support of the government and even after it became remunerative, its contribution was fixed by the terms of the charter and could not, in any event, exceed twenty-five cents on the share of stock. The impolicy of this legislation is apparent, but there is no relief to the State for the rights secured by the contract are protected from invasion by the constitution of the United States.

As the pleadings show that the annual profits on the shares of stock have never reached 8 per cent, it follows that they were not subject to any public charge of tax.

Judgement reversed and the cause remanded for further proceedings.

IN CONFORMITY WITH THIS OPINION.

THE MORTGAGE INDEBTEDNESS OF THE RALEIGH AND GASTON  
RAILROAD.

The only indebtedness of the Raleigh and Gaston Railroad Company at this date (August 1st. 1877,) is the mortgage of \$1,000,000 authorized as will be seen below. Of this \$860,000 have been issued. Further issue of bonds have been discontinued for the present by resolution of the Board of Directors of 20th of July, 1877.

*Copy of the Resolutions referred to in the deed hereto annexed.  
Resolutions adopted by the Stockholders' Meeting, October 3,  
1872. Yeas, 10,927 votes, Nays, 1,899 votes.*

WHEREAS, the General Assembly of North Carolina, by an act, entitled "An Act concerning the Chatham Railroad Company, amendatory of certain acts, and authorizing a change of name," which act was ratified on the 13th day of December, 1871, and accepted by the stockholders of the Chatham Railroad Company on the 9th day of January, 1872, did change the name of the Chatham Railroad Company to that of the Raleigh and Augusta Air Line Railroad Company, and by said act gave permission to said Railroad Company to extend the road to the South Carolina line, in the direction of Augusta, Georgia, to enable it to do which it authorized said Railroad Company to increase its capital stock by the issue of guaranteed or preferred stock, and bonds secured by mortgage on its property, franchises and income, and by section 4 of said act, did enact "That authority is hereby given the Raleigh and Gaston Railroad Company, or any other railroad company connecting therewith, to subscribe to or purchase stock of any kind in the said Raleigh and Augusta Air Line Railroad Company, and in order to enable them to make such subscription or purchase, it shall be lawful for any such company to issue mortgage bonds for such amount, and of such form and for such rate of interest as it may

deem advisable, and it shall be lawful for such Company to purchase or endorse the mortgage bonds of the Raleigh and Augusta Air Line Railroad Company."

*And whereas*, The material interests and future prosperity of the Raleigh and Gaston Railroad Company is so much dependent upon, and linked with that of the Raleigh and Augusta Air Line Railroad Company, that it has become of paramount importance to the interests of the former, that the Raleigh and Augusta Air Line Railroad should be completed at an early day, to at least a junction with the Wilmington, Charlotte and Rutherford Railroad, at such point as may be found, most desirable. Therefore,

*Be it resolved by the stockholders of the Raleigh and Gaston Railroad Company, in general meeting assembled*, That the President and Directors of this Company are hereby authorized and empowered to subscribe to or purchase guaranteed or preferred stock, or the mortgage bonds of the Raleigh and Augusta Air-Line Railroad Company to such extent as they may deem advisable.

*Resolved*, For the purpose of providing means for the above object, that the President and Directors be and they are hereby authorized and empowered to have prepared coupon bonds of the Company, bearing interest at the rate of eight per cent. per annum, free of all taxation, in amounts of one thousand (\$1,000) dollars each, to such extent as they may deem advisable, not exceeding in the aggregate one million of dollars; the said bonds to bear date the first day of January, 1873, the principal of the same to be payable the first day of January, 1898, and the interest in the meantime, semi-annually, on the first days of July and January in each year, and both interest and principal to be paid as the holder of any of the bonds may prefer, at the office of the Company in Raleigh, or in the city of Philadelphia; and the said President and Directors are hereby authorized and empowered, for the purpose of securing the punctual payment of the interest, and the payment of the principal of said bonds, to ex-

cute a mortgage or deed of trust upon the railroad and its franchises, and all other property of the Company of every description, in such manner and form, and on such conditions as they may deem most advisable.

*Resolved*, That the President and Directors be, and they are hereby authorized and empowered to negotiate a sale or sales of the above bonds, at such time or times as they may deem advisable; and that the seal of the Company be affixed to said bonds only as the same may be sold or delivered for negotiation; the affixing of said seal shall be attested by the signatures of three Directors of the Company.

*Extract from the minutes of proceedings of the Board of Directors of the Raleigh and Gaston Railroad Company, in session October 4, 1872.*

*“Resolved*, That in pursuance of the resolutions of the stockholders, as passed at their annual meeting on the 3d inst., the President and two members of this Board be appointed a committee, to have the form of coupon bond and mortgage, or deed of trust, prepared and submitted to the Board for approval. In pursuance of the foregoing resolution, W. J. Hawkins, President, and George W. Grice and Joseph B. Batchelor, were appointed a committee.

At a meeting of the President and Directors of the Raleigh and Gaston Railroad Company, held on the 23d day of April, A. D., 1873, the committee appointed on the 4th day of October, 1872, submitted their report, which was approved, and the following resolutions were thereupon adopted:

1. *Resolved*, That under the authority and power given by the stockholders, in general meeting on the 3d day of October, 1872, the President and Directors will subscribe to or purchase guaranteed or preferred stock of the Raleigh and Augusta Air-Line Railroad Company to such extent as may be practicable with the means properly applicable to this object.



2. *Resolved*, That for the purpose of providing such means, there be printed coupon bonds of this Company, bearing interest at the rate of eight per cent. per annum, free of all taxation, in amounts of one thousand dollars each, to the extent of, but not exceeding in the aggregate one million of dollars; the said bonds to bear date the first day of January, 1873, the principal of the same to be payable the first day of January, 1898, and the interest in the meantime, semi-annually, on the first days of July and January in each year, and both interest and principal to be paid as the holder of any of the bonds may prefer, at the office of the Company in Raleigh, or in the city of Philadelphia.

3. *Resolved*, That for the purpose of securing the punctual payment of the interest, and the payment of the principal of said bonds, a deed of trust be now executed, according to the form accompanying said report; and that Edmund Randolph Robinson, of New York, William Nevins Whelen, of Philadelphia, and Wm. E. Anderson, of Raleigh, N. C., be the trustees therein. Whereupon, in the presence of this Board, and by its authority, the said deed was sealed with this Company's common seal, and signed by the President and two of the Directors of the Company, and attested by a witness.

4. *Resolved*, That it is advisable to negotiate sales of said bonds; that the seal of the company be affixed to said bonds only as the same may be sold or delivered for negotiation, and the affixing thereof be attested as prescribed by the resolutions of the stockholders; and that the President report to the Board from time to time the terms of such sales.

5. *Resolved*, That the President, before said deed of trust shall be registered, cause all debts and contracts of this company prior to, or at the time of the execution of said deed, to be paid off or secured, and that he make report to the board of his proceedings under this resolution.

## DEED OF TRUST.

*By the Raleigh and Gaston Railroad Company, to EDMUND RANDOLPH ROBINSON, of New York, WILLIAM NEVINS WHELEN, of Philadelphia, and WILLIAM E. ANDERSON of Raleigh, North Carolina, to secure the punctual payment of the interest and principal of one thousand first mortgage eight per cent. bonds, \$1,000 each, and copy of bond.*

WHEREAS, "An act to incorporate the Raleigh and Gaston Railroad Company," was passed by the General Assembly of the State of North Carolina, at the session of 1835, and by a subsequent act of the thirteenth day of December, 1871, the General Assembly of the same State authorized the Raleigh and Augusta Air Line Railroad Company to increase its capital stock and authorized the Raleigh and Gaston Railroad Company to subscribe to, or purchase stock of any kind in said Raleigh and Augusta Air Line Railroad Company, and in order to enable them to make such subscription or purchase, made it lawful for said Company to issue mortgage bonds for such amount, and of such form, and for such rate of interest as it may deem advisable: *And whereas*, the stockholders of the Raleigh and Gaston Railroad Company in general meeting resolved, as set forth in their resolutions of the third day of October, 1872; and the President and Directors of said Company resolved, as set forth in their resolutions of the twenty-third of April, A. D. 1873; copies of which resolutions, as well as of the stockholders as of the directors, are hereto subjoined.

*Therefore*, this deed made on the day last mentioned, between the Raleigh and Gaston Railroad Company, of the first part, and Edmund Randolph Robinson, of New York, William Nevins Whelen, of Philadelphia, and William E. Anderson, of Raleigh, N. C., of the second part; witnesseth, that this deed is made for the purpose of securing the punctual payment of the interest, and the

payment of the principal of the coupon bonds, which may be sold and delivered under said resolutions; by each of which said bonds, the Raleigh and Gaston Railroad Company acknowledge themselves indebted in the sum of one thousand dollars, and promise to pay the same to the order of W. W. Vass, Treasurer of said Company, on the first day of January, 1898, with interest, at the rate of eight per centum per annum, payable semi-annually, on the first days of January and July in each year, free of all taxation; the payment to be as the holder of a bond may prefer, at the office of the company in Raleigh or in Philadelphia. And the Raleigh and Gaston Railroad Company, in consideration of the premises, and of ten dollars to said Company paid before the sealing and delivery hereof, hath granted, bargained and sold, and by these presents doth grant, bargain, sell, convey, assign, transfer and set over unto the parties of the second part the said Company's railroad and franchises, and all its works and property of every description. To have and to hold the same unto the parties of the second part, their heirs, successors and assigns, in trust, that until there shall be default in paying some of the interest or principal herein provided for, the said Company may retain possession of its works and property, and enjoy the same, with the rents, tolls and other income thereof; and the President and Directors may manage and operate said works and property, and apply the proceeds thereof in accordance with the charter of the company and the deeds made to and by it. And at any time or times before such default, the said parties of the second part, or any two of them, or the survivor of them, or his executor or administrator, may sell and convey any of the real, and permit the sale and transfer of any of the personal property of said company, and reinvest the proceeds of such sale or sales in said coupon bonds, or in bonds of the United States, or in other property; holding what is so invested, with the interest and other income thereof, upon the same trusts as are declared in respect to

the property, out of the sale whereof the proceeds so reinvested shall arise. But in case there shall be default in paying on any first day of July or first day of January, on the principal of any of said coupon bonds, interest as stipulated, at the rate of eight per cent. per annum, free of all taxation, or though there shall have been no previous default in paying such interest; yet in case there shall be default in paying the principal, or any part of the principal of any of said bonds, at the time thereby stipulated for such payment, then in either of said cases, if the default shall continue for two months, the said parties of the second part, or any two, or either of them, or the executor or administrator of the survivor of them, may proceed personally, or by attorney or agent, to take possession of the Company's works and property, and manage the same, and apply so much of the rents, tolls and other income thereof, as may be necessary to defray taxes, charges for repairs, and the expense of operating the railroad and conducting its business; and whether such possession be taken or not, the parties of the second part, or any two, or either of them, or the executor or administrator of the survivor of them, may, and if required by creditors entitled to the greater part of the money due and unpaid on said coupon bonds, shall give notice of the time and place of sale of all the Company's works and property, by advertisement published not less than three times a week, for six weeks, in two daily newspapers in the city of New York, and in one newspaper in each of the cities of Philadelphia, Norfolk and Raleigh, if and so far as the same may be practicable, and at said time and place, or such time and place as the sale may be adjourned to, shall make a sale under this deed for cash, or upon such credit as may be prescribed by creditors entitled to such greater part of the money so due and unpaid, and after receiving the purchase money, shall make pursuant to the sale, a conveyance, by which sale and conveyance there shall pass to the purchaser at the sale, not only the works and property of the Company as they

were at the time of making this deed, but any works which the Company may after this time and before the sale have constructed, and all other property of which it may be possessed at the time of the sale, other than debts due to it. And all the money which may be received in the execution of this trust, whether for income or proceeds of sale, shall be applied first to the payment of necessary expenses, including a commission, to be divided between the acting trustees, of five per cent. on the first one thousand dollars, and three per centum on the residue of such income or proceeds, and then pro rata to the payment of the holders of said coupon bonds, of the principal of said bonds, with interest thereon as aforesaid, whether the sale be made before or after the first day of January, 1898, and the surplus shall be subject to the payment of all money for which the Company may at the time of said sale be liable, otherwise than in respect to said coupon bonds. And after payment of all debts due by the Company, then whatever may remain of said surplus shall be distributed among the holders of shares of stock of the Company according to their respective interest. If before a sale and conveyance by virtue hereof, any of the parties of the second part shall die or become incapable of acting in the execution of the trust, the survivors or survivor of said parties may by an instrument of writing, signed and sealed, appoint successors or a successor in the place and stead of them or him so dead or incapable. Such instrument, after being duly acknowledged or proved, shall be registered in the counties wherein this deed is registered, and from the time of the complete registration thereof, such successor shall, without any further conveyance, be invested with all the right, estate, power and authority which the party in whose place and stead he is appointed had, when such party died or became incapable of acting.

Scaled with the common seal of the Raleigh and Gaston Railroad Company, and signed by the President



thereof, and two other members of the corporation ; also signed and sealed by the parties of the second part.

W. J. HAWKINS, *President.*

PAUL C. CAMERON, *Director.*

JOS. B. BATCHELOR, *Director.*

EDMUND RANDOLPH ROBINSON, *Trustee.*

WILLIAM NEVINS WHELEN, “

W. E. ANDERSON, “

*Attested by the following witnesses :*

THOMAS BADGER, } Witnesses as to the  
W. W. VASS, } execution by the  
President and Directors.

CHARLES E. MILLS, } As to  
CHARLES NETTLETON, } Edmund Randolph Robinson.

SAMUEL L. TAYLOR, } As to  
CHARLES M. ROBINSON, } William Nevins Whelen.

THOMAS BADGER,—As to W. E. Anderson.

STATE OF NORTH CAROLINA, } *In the Probate Court.*  
Wake County.

Be it remembered, that on this the the twenty-third day of April, A. D. 1873, the execution of the foregoing deed was duly proven by the oath and examination of Thomas Badger, one of the subscribing witnesses, as to W. J. Hawkins, Paul C. Cameron and Jos. B. Batchelor.

[L. S.] *In witness whereof*, I have hereunto set my hand and affixed the official seal of my office, the year and date above written.

JOHN N. BUNTING,  
*Probate Judge.*

STATE OF NEW YORK, }  
*City and County of New York,* } ss.

On this 28th day of April, A. D. 1873, before me, Charles Nettleton, a Commissioner appointed by the State of North Carolina, in and for the State of New York, residing in said City of New York, personally came Edmund Randolph Robinson, the bargainor in the fore-

going Instrument, and acknowledged the execution thereof, as trustee therein named.

CHARLES NETTLETON.

*In witness whereof*, I have hereunto set my  
[L. s.] hand and affixed my official seal this 28th  
day of April, A. D. 1873.

CHARLES NETTLETON,

*Commissioner for North Carolina in New York, 117 Broadway, N. Y. City.*

STATE OF PENNSYLVANIA, }  
*City and County of Philadelphia,* } ss.

On this 29th day of April, A. D. 1873, before me, Samuel L. Taylor, a Commissioner appointed by the State of North Carolina, in and for the State of Pennsylvania, residing in said City of Philadelphia, personally came William Nevins Whelen, the bargainor in the foregoing instrument, and acknowledged the execution thereof, as trustee therein named.

*In witness whereof*, I have hereunto set my hand  
[L. s.] and affixed my Official Seal this 29th day of  
April, A. D. 1873.

SAMUEL L. TAYLOR,

*Commissioner for North Carolina in Pennsylvania,*  
518 Walnut Street, Philadelphia.

STATE OF NORTH CAROLINA, }  
*Wake County.* } *In the Probate Court.*

Be it remembered, that on this the eight day of May, A. D. 1873, the execution of the foregoing deed was duly proven by the oath and examination of Thomas Badger, the subscribing witness, as to W. E. Anderson; and the foregoing deed being this day exhibited before me with the certificates and official seals of Charles Nettleton, of New York, and Samuel L Taylor, of Philadelphia, commissioners of the State of North Carolina, attached, as to the execution of Edmund Randolph Robinson, and William Nevins Whelen and it appearing to be in due form it is therefore adjudged by me to be in due form according to law.

Therefore let this deed, with the certificates above, together with this certificate, be registered.

Given under my hand and seal of office the year  
[L. s.] and date above written.

J. N. BUNTING,  
*Judge of Probate.*

Filed for registration May 8th, 1873, at 3 o'clock, P. M.

W. W. WHITE,  
*Register of Deeds.*

Registered in the Register's Office of Wake County, in Book No. 36, and pages 48, 49, 50, 51, 52, 53, 54 and 55, May 8th, 1873.

W. W. WHITE,  
*Register of Deeds.*

FRANKLIN COUNTY:—*In the Probate Court.*

The foregoing deed, together with the certificate of probate, by the Probate Judge of Wake county, under the seal of the Court of Probate for said county, is this 10th day of May, 1873, exhibited before the undersigned Judge of Probate for Franklin county, whereupon, it is adjudged that the said deed is duly proved, and the said certificate is in due form. Therefore let the said deed, together with all the proceedings be registered.

[L. s.] R. H. TIMBERLAKE,  
*Probate Judge.*

STATE OF NORTH CAROLINA, }  
*Franklin County.* }

I. J. B. Tucker, Register of Deeds for the county aforesaid, do hereby certify that the above Deed of Trust and certificates are duly and truly registered in book No. 39, and on pages 86, 87, 88, 89, 90 and 91 of said book, this May 10th, 1873.

J. B. TUCKER.  
*Register of Deeds, &c.*

NORTH CAROLINA, } *In the Probate Court.*  
*Granville County.*

The foregoing deed, together with the certificate of the Probate Judge of Wake county, under the seal of the Court of Probate for said county, and the certificate of the Probate Judge of the county of Franklin, under his seal of office, is this the 12th day of May, A. D. 1873, exhibited before me, the undersigned, Probate Judge for the county of Granville, in the State aforesaid. It is thereupon adjudged that the same has been duly proved and that said certificates are in due form. It is therefore ordered that the said deed, together with said certificates and this certificate, be registered in the said county of Granville.

[L. s.]

C. BETTS,  
*Probate Judge.*

Received for registration on the 12th day of May, A. D. 1873, at 5 o'clock. P. M., and duly and truly registered in the Register's office of Granville county, in book 27, on pages 196, 197, 193, 199, 200, 201, 202, 403 and 204.

A. H. COOKE,  
*Register of Deeds for Granville County.*

STATE OF NORTH CAROLINA, } *In the Probate Court.*  
*Warren County.*

Be it remembered, that on the 13th day of May, A. D. 1873, before me, William A. White, Judge of said Court, the foregoing deed is produced and exhibited, and it appearing to the satisfaction of the Court, from the certificates and official seals of Charles Nettleton, of New York, and Samuel Taylor, of Philadelphia, Commissioners of the State of North Carolina, that the execution of the said deed was duly acknowledged by Edmund Randolph Robinson and William Nevins Whelen; and it further appearing from the certificate and seal of J. N. Bunting, Probate Judge of Wake county, State of North Carolina, that the execution of the said deed by W. J. Hawkins,

Paul Cameron, Joseph B. Batcheler and W. E. Anderson, was duly proved before him ; I therefore adjudge said deed duly proven, and the same, together with said certificates, and this certificate, are ordered to be registered.

[I. S.]

WILLIAM A. WHITE,  
*Probate Judge.*

Received for registration the 13th day of May, A. D. 1873, and duly registered on the same day in Book 36, pages 90, 91, 92, 93, 94, 95 and 96, in the office of the Register of Deeds, of Warren county, N. C.

ISHAM H. BENNETT,  
*Register of Deeds.*

STATE OF NORTH CAROLINA, } *In the Probate Court.*  
*Halifax County.*

Be it remembered, that on the fourteenth day of May, A. D. 1873, before me, John T. Gregory, Judge of said Court, the foregoing deed is produced and exhibited, and it appearing to the satisfaction of the Court, from the certificate and official seals of Charles Nettleton, of New York, and Samuel Taylor, of Philadelphia, Commissioners of Deeds for the State of North Carolina, that the execution of the said deed was duly acknowledged by Edmund Randolph Robinson and William Nevins Whelen ; and it further appearing from the certificate and seal of J. N. Bunting, Probate Judge of Wake county. State of North Carolina, that the execution of the said deed by W. J. Hawkins, Paul C. Cameron, Joseph B. Batcheler and W. E. Anderson, was duly proved before him ; I therefore adjudge said deed duly proven, and the same, together with said certificates, and this certificate, are ordered to be registered.

[L. S.]

JOHN T. GREGORY,  
*Probate Judge.*

Received and recorded this 14th day of May, 1873, Book 41, pages 552, 553, 554, 555, 556, 557, 558, 559, 560, 561 and 562.

BEN. H. FRANKLIN,  
*Register of Deeds.*



## ( BOND. )

## RALEIGH AND GASTON RAILROAD COMPANY.

LOAN OF \$1,000,000.

*First Mortgage, and Free of all Taxation.*

No.	{ North Carolina }	\$1000.
	{ State Seal. }	

KNOW ALL MEN BY THESE PRESENTS, That the Raleigh and Gaston Railroad Company acknowledge themselves indebted in the sum of one thousand dollars, being for money borrowed by said company, by authority given at a meeting of the stockholders thereof, on the 3rd day of October, 1872, which said sum of one thousand dollars, the said Raleigh and Gaston Railroad Company hereby promise to pay to the order of W. W. Vass, Treasurer of said company, on the first day of January, 1898, with interest at the rate of eight per centum per annum, payable semi-annually, on the first days of January and July in each year; the said interest and principal to be paid as the holder of this bond may prefer, at the office of the company in Raleigh, or in Philadelphia, upon presentation and delivery of the dividend warrants, in the margin hereof, until the payment of the principal sum.

*Witness* the seal of the Raleigh and Gaston Railroad Company, and the signatures of the President and Treasurer thereof, this first day of January, 1873.

*President**Treasurer.**This Seal is affixed in our presence.*

_____	} Directors
_____	
_____	
	R. & G. R. R. Co.

Semi-annual Dividend Warrants in margin, from July 1st, 1873, to January 1st, 1893, of form annexed.

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RALEIGH AND GASTON RAILROAD  
COMPANY.

Dividend Warrant for FORTY DOLLARS, being half  
yearly interest on bond No. payable 1st Jan.  
18

\$40

*Treasurer.*

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A CONDENSED HISTORY OF THE RALEIGH AND GASTON  
RAILROAD COMPANY.

The Company was originally chartered in 1835, to run from Gaston to Raleigh. Work commenced soon thereafter. The road was completed through to Raleigh in 1843. It existed under great difficulties until it was finally sold under a foreclosure directed by act of the General Assembly ratified 6th January, 1845. At the sale in pursuance thereof the State of North Carolina, through its then Governor, Hon. William A. Graham, bought the entire property and franchises. It was then run entirely as a State institution until its reorganization under the acts of the General Assembly, ratified January 29th, 1851, and 25th December, 1852.

THE NEW COMPANY.

The first meeting of stockholders to organize under the new charter was held at Warrenton, N. C., 11th and 12th September, 1851, when George W. Mordecai was elected President and W. W. Vass, Secretary and Treasurer. The first stockholders' meeting held thereafter met at Henderson 14th and 15th January, 1852, when resolutions were introduced and adopted looking to a connection with the Seaboard Railroad at Weldon. The Presi-

dent also recommended an actual connection at Raleigh with the North Carolina Railroad.

The road from Gaston to Weldon and the entire reconstruction of the whole line was completed in 1853. The new bridge at Gaston was completed in 1858. It was burnt down on their retreat by the Confederate forces in 1865, and has not been rebuilt.

At the stockholders' meeting, November 3d, 1859, the fiscal year was changed so as to end May 31st, instead of September 30th.

At the stockholders' meeting held 4th of July, 1861, the act of the General Assembly ratified 22d February, 1861, entitled "An act allowing the Raleigh & Gaston Railroad Company to increase its capital stock," was accepted, and, by resolution, the capital stock was increased from \$973,300 to \$1,500,000, \$125,000 of the increase to be held to purchase slaves for the road and the rest of the increase being divided among the stockholders as a stock dividend.

At the stockholders' meeting held 20th March, 1862, the Board of Directors were authorized to subscribe for 2,000 shares of stock in the Chatham Railroad Company.

At the stockholders' meeting held July 2d, 1863, the amended by-laws were adopted and the annual meeting fixed for the first Thursday in July each year.

At the stockholders' meeting 7th July, 1864, a further subscription of \$300,000 to the capital stock of the Chatham Railroad Company was authorized.

At the meeting 20th July, 1865, an order from Provisional Governor Holden was read, forbidding representation in person or by proxy of any stockholders who were "within the fourteen classes excepted from the President's amnesty proclamation." This not leaving a quorum, the meeting adjourned to August 4th, 1865. At this meeting it was directed that the Legislature be petitioned to allow the Gaston bridge to be discontinued, and the act passed in pursuance thereof was accepted at the next stockholders' meeting held 5th July, 1866. At this meeting

of 1866 a committee was appointed to confer with other committees to agree upon the scale of the stock of the Chatham Railroad Company.

At the stockholders' meeting held 4th July, 1867, an act of the General Assembly ratified 4th March, 1867, entitled "An act to amend the charter of the Raleigh & Gaston Railroad Company," was accepted. As a consequence the stockholders elected, for the first time, all seven of the directors. Before the exchange of the State stock authorised by ordinance of the Convention of 16th June, 1866, the State had appointed three directors and the private stockholders had elected four. At this same meeting 4th, July, 1867, a new code of by-laws were adopted, and the annual meeting was fixed on the third Thursday of July.

At the annual meeting, 16th July, 1868, the Board of Directors were authorized to aid the Chatham Railroad Company to an extent not to exceed \$50,000.

A. B. Andrews was elected Superintendent in 1867, and filled that position till his resignation, November 1st, 1875, when Maj. John C. Winder was elected Superintendent, a position he still fills.

On July 28th, 1868, a contract for five years was signed with the President of the North Carolina Railroad by which the through freights of that road were shipped over the Raleigh & Gaston Railroad.

At the annual meeting, 20th July, 1871, the Board of Directors were authorized, in person or by proxy, to represent the stock of this road in the stockholders' meetings of the Chatham Railroad Company. A committee was appointed to report to next stockholders' meeting whether the amendment to the charter changing the mode of election of the President would transfer the control of the charter to the General Assembly.

At an adjourned meeting of stockholders, held October 3d, 1872, said act being entitled "An act to amend the charter of the Raleigh & Gaston Railroad Company," ratified 4th December, 1871, was accepted and became a

part of the charter. Thereafter the President has been elected by a direct vote of the stockholders, instead of by the Board of Directors, and the stockholders elect six, instead of seven directors.

On the 1st of October, 1875, Dr. W. J. Hawkins having resigned as President, Maj. Geo. W. Grice was elected to fill the vacancy. On November 12th, 1875, Major Grice died, and on the 30th of the same month John M. Robinson was elected to succeed him.

On April 7th, 1877, the Raleigh & Augusta Air Line Railroad executed a mortgage on its road and franchises (being the only mortgage now on that road) to secure payment of dividends on the \$1,000,000 preferred eight per cent. stock of that road held by the Raleigh and Gaston Railroad Company.

At the directors' meeting held 20th July, 1877, the President reported that the subscription for \$1,000,000 of the preferred stock of the Raleigh & Augusta Air Line Railroad, made by this company, had been paid in full and that \$140,000 of the mortgage bonds of the Raleigh & Gaston Railroad remained untouched. Thereupon it was resolved that the issue of said bonds should be limited for the present to \$860,000. The Raleigh and Augusta Air Line Railroad Company was reported as nearly completed to its connection with the Carolina Central at Hamlet, it being thought that the cars would run through regularly in a few days.

RALEIGH. N. C. August 1, 1877.

THE END.



# RALEIGH & GASTON RAILROAD COMPANY.

Table of Annual Receipts from Freight and Passengers from Organization to May 31st, 1877.

COMPILED BY JAMES M. POOL, AUDITOR.

DATE	PRESIDENT.	TREASURER.	FREIGHT.	PASSENGERS.	TOTAL.	Compared with Year Previous.	
						INCREASE.	DECREASE.
1833	George W. Mordecai,	J. W. Whiting,	10,103 10	\$ 6,524 31	\$ 16,627 41		
1840	Samuel F. Patterson,	S. W. Whiting,	20,533 08	13,827 88	34,361 96	17,750 15	
1841	Samuel F. Patterson,	S. W. Whiting,	23,539 24	27,473 92	51,013 16	26,498 56	2,857 32
1842	Samuel F. Patterson,	S. W. Whiting,	23,780 06	27,473 92	51,253 98	6,965 80	
1843	Samuel F. Patterson,	S. W. Whiting,	23,780 06	27,473 92	51,253 98	6,965 80	
1844	James Wychie and W. Hollister,	S. W. Whiting,	23,780 06	27,473 92	51,253 98	6,965 80	
1845	Wesley Hollister,	W. W. Vass,	20,028 77	21,049 50	41,078 27	1,901 74	
1846	Wm. Boylan,	W. W. Vass,	25,527 80	21,349 94	46,877 74	5,799 46	
1847	Thomas Miller,	W. W. Vass,	25,527 80	21,349 94	46,877 74	5,799 46	
1848	Thomas Miller,	W. W. Vass,	25,527 80	21,349 94	46,877 74	5,799 46	
1849	W. W. Vass,	W. W. Vass,	25,527 80	21,349 94	46,877 74	5,799 46	
1850	W. W. Vass,	W. W. Vass,	25,527 80	21,349 94	46,877 74	5,799 46	
1851	W. W. Vass,	W. W. Vass,	25,527 80	21,349 94	46,877 74	5,799 46	
1852	George W. Mordecai,	C. J. Williams,	31,171 97	23,490 90	54,662 87	5,177 34	
1853	L. O'B. Branch,	W. W. Vass,	27,132 80	25,545 23	52,678 03	5,942 53	
1854	L. O'B. Branch,	W. W. Vass,	27,132 80	25,545 23	52,678 03	5,942 53	
1855	L. A. Hamilton,	W. W. Vass,	35,879 95	25,827 09	61,707 04	9,029 01	
1856	E. A. Crudup,	W. W. Vass,	64,626 32	46,235 05	110,861 37	49,154 33	6,917 37
1857	W. J. Hawkins,	W. W. Vass,	100,707 70	63,595 74	164,303 44	53,442 07	
1858	W. J. Hawkins,	W. W. Vass,	121,027 26	61,122 59	182,149 85	18,417 07	
1859	W. J. Hawkins,	W. W. Vass,	104,233 54	67,445 24	171,678 78	32,337 81	
1860	W. J. Hawkins,	W. W. Vass,	128,419 58	68,597 01	197,016 59	25,163 73	
1861	W. J. Hawkins,	W. W. Vass,	149,551 65	72,688 67	222,240 32	26,187 92	
1862	Gaston H. Wilder,	W. W. Vass,	164,775 28	83,592 93	248,368 21	26,187 92	
1863	W. J. Hawkins,	W. W. Vass,	102,671 45	53,572 21	156,243 66	81,105 24	
1864	W. J. Hawkins,	W. W. Vass,	*147,612 40	*89,601 80	*237,214 20	127,816 45	
1865	W. J. Hawkins,	W. W. Vass,	*162,416 03	*212,604 62	*375,020 65	45,594 38	
1866	W. J. Hawkins,	W. W. Vass,	*291,042 86	*526,572 17	*817,615 03	619,158 72	
1867	W. J. Hawkins,	W. W. Vass,	*7,006 49	*716,707 29	*723,713 78	90,005 20	
1868	W. J. Hawkins,	W. W. Vass,	*725,262 75	*621,505 74	*1,346,768 49	90,005 20	
1869	W. J. Hawkins,	W. W. Vass,	119,520 81	130,773 40	250,294 21	36,173 96	
1870	W. J. Hawkins,	W. W. Vass,	157,924 10	98,544 07	256,468 17	37,080 43	
1871	W. J. Hawkins,	W. W. Vass,	123,180 64	79,508 45	202,689 09	64,791 33	
1872	W. J. Hawkins,	W. W. Vass,	161,776 90	78,002 62	239,779 52	36,539 66	
1873	W. J. Hawkins,	W. W. Vass,	221,085 02	83,452 83	304,537 85	10,891 48	
1874	W. J. Hawkins,	W. W. Vass,	281,744 45	79,363 06	361,107 51	7,088 14	
1875	W. J. Hawkins,	W. W. Vass,	271,315 00	80,696 99	352,011 99	92,039 58	
1876	W. J. Hawkins,	W. W. Vass,	276,631 60	82,466 53	359,098 13	13,888 49	
1877	W. J. Hawkins,	W. W. Vass,	187,320 55	79,679 56	267,000 11	18,322 45	
	W. J. Hawkins,	W. W. Vass,	181,910 94	71,201 12	253,112 06	7,872 07	
	Geo. W. Grace,	W. W. Vass,	170,780 41	64,009 20	234,789 61		
	John M. Robinson,	W. W. Vass,	107,625 35	59,292 19	226,917 54		
			\$ 5,693,337 06	\$ 3,979,734 94	\$ 9,773,072 00		

NOTE.—Reorganization Raleigh & Gaston Railroad Company, September 30, 1851. Those marked \* Confederate currency.







Photomount  
Pamphlet  
Binder  
Gaylord Bros.  
Makers  
Syracuse, N. Y.  
PAT. JAN 21, 1908



